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ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 19B 2007 Replacement TITLE 19: PUBLIC FINANCE (CHAPTERS 6-12)

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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2007 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2007 Ark. LEXIS 287 (June 28, 2007) and 2007 Ark. App. LEXIS 324 (June 27, 2007).

Federal Supplement through August 13, 2007.

Federal Reporter 3d Series through August 13, 2007.

United States Supreme Court Reports, through August 13, 2007.

Bankruptcy Reporter through August 13, 2007.

Arkansas Law Notes through the 2006 Edition.

Arkansas Law Review through Volume 59, p. 511.

University of Arkansas at Little Rock Law Review through Volume 28, p. 399.

ALR 6th through Volume 17, p. 757.

Titles of the Arkansas Code

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5. Criminal Offenses
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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

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PUBLIC FINANCE
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Effective Dates. Acts 1973, No. 808, § 17; Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1985, No. 65, § 8; July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws

have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

19-6-101. Title.

This chapter shall be referred to and may be cited as the "Revenue Classification Law" of Arkansas.

History. Acts 1973, No. 808, § 1; A.S.A. 1947, § 13-503.

19-6-102. Purpose.

Because of the many revenue laws of the state providing for the levying and collecting of taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, and penalties for the support of the state government and its agencies, institutions, boards, and commissions that have been enacted by various General Assemblies, it is the policy of the General Assembly with respect to all such revenues and other income, which are required by law to be deposited into the State Treasury, to describe, define, and classify all such revenues and other income and to provide for the purposes, individually and collectively, that all such revenues and other income may be used. It is the intent and purpose of this chapter to comply with the provisions of the Arkansas Constitution, including Article 16, § 11, thereof.

History. Acts 1973, No. 808, § 2; A.S.A. 1947, § 13-503.1.

19-6-103. Cash funds.

All taxes, licenses, fees, permits, or other income collected by any board, agency, or commission by virtue of the authority of the State of Arkansas which are designated by law to be deposited into a depository other than the State Treasury are classified as "cash funds" and are

declared to be revenues of the state to be used as required and to be expended only for such purposes and in such manner as determined by law.

History. Acts 1973, No. 808, § 2; A.S.A. 1947, § 13-503.1.

19-6-104. Income required to be deposited into State Treasury.

All taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, penalties, and other income provided for by law for the support of state government and its agencies, institutions, boards, and commissions which are required by law to be deposited into the State Treasury shall be handled and used in the manner and for the purposes provided for by this chapter.

History. Acts 1973, No. 808, § 3; A.S.A. 1947, § 13-503.2.

19-6-105. Handling of collections.

All fines, fees, penalties, court costs, taxes, and other collections which, by the laws of this state, are to be remitted directly to the Treasurer of State for credit in the State Treasury to an account of an agency of this state shall be remitted directly to the agency to whose account the same is to be credited. Upon receipt, the agency shall transmit all collections to the Treasurer of State, to be credited by him or her to the account of the agency depositing them.

History. Acts 1973, No. 808, § 3; A.S.A. 1947, § 13-503.2.

19-6-106. Effect on general revenue statutes.

As to the taxes, licenses, fees, and other revenues classified as general revenues, as set out in this chapter, it is not the purpose of this chapter to levy or change the amount or rate of such taxes, licenses, fees, and other revenues but to state the purpose for which general revenues are to be used. This chapter shall not be construed as amending any of the provisions of the law with respect to such taxes defined to be general revenues except for the purpose of defining the purposes for which these revenues are raised and collected.

History. Acts 1973, No. 808, § 4; A.S.A. 1947, § 13-503.3.

19-6-107. Effect on special revenue statutes.

As to the special taxes, licenses, fees, and other revenues classified as special revenues, as set out in this chapter, it is not the purpose of this chapter to levy or change the amount or rate of such taxes, licenses, fees, and other revenues, nor to change the purposes for which such

special revenues are to be used as provided for by law. This chapter shall not be construed as amending any of the provisions of law with respect to such taxes defined to be special revenues except for the purpose of defining the purposes for which these revenues are raised and collected, which shall also include the services rendered by the constitutional and fiscal agencies in the manner provided by law.

History. Acts 1973, No. 808, § 5; A.S.A. 1947, § 13-503.4.

19-6-108. Classifications of revenue.

All taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, penalties, or other governmental income available to the State of Arkansas, which are required by law to be deposited into the State Treasury, shall be classified under one (1) or more of the following:

- (1) General revenues;
- (2) Special revenues;
- (3) Trust fund income;
- (4) Federal grants, aids, and reimbursements; and
- (5) Nonrevenue receipts.

History. Acts 1973, No. 808, § 6; A.S.A. 1947, § 13-503.5.

19-6-109. Miscellaneous revenue.

(a) All fines, penalties, interest, or court costs received in connection with the collection of any revenue shall be classified the same as the revenue for which the fines, penalties, interest, or court costs are levied.

(b) Proceeds from rental of any real or personal property owned by the State of Arkansas are to be classified as special revenues belonging to the fund or fund account from which the state agency to which the property belongs receives its support unless otherwise specified by law.

(c) All nonrevenue receipts as defined in § 19-6-701 derived from proceeds from the sale of property, income received on account of services being provided by an agency of the state, or any other miscellaneous earnings of any state agency shall be credited to the fund or fund account from which the agency draws its support unless specified otherwise by law.

History. Acts 1973, No. 808, § 12; A.S.A. 1947, § 13-503.11.

Cross References. Uniforms, § 12-9-111.

19-6-110. Mixed funds.

If, at the close of any fiscal year, a balance remains in any State Treasury fund, fund account, or account which is subject to transfer at the close of a fiscal year, and into which both general revenues and either special revenues, nonrevenue receipts, or federal reimburse-

ments are deposited and expended, the special revenue portion of the balance shall be the proportion that the amount of special revenues credited to such fund or fund account is to total funds credited to the fund or fund account in each fiscal year. The special revenue portion of the balance shall be carried forward to the next fiscal year and shall be used solely for the purposes for which it was collected as provided by law.

History. Acts 1973, No. 808, § 13; 1985, No. 65, § 5; A.S.A. 1947, § 13-503.12.

SUBCHAPTER 2 — GENERAL REVENUES

SECTION.

19-6-201. General revenues enumerated.

Cross References. Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

Direct deposits by the State into local government cash management trust account, § 19-8-311.

Municipal Aid Fund, § 19-5-601 et seq.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 863, § 9: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the provisions of this Act are necessary for the proper administration of vital state programs, and that to delay the provisions of this Act beyond July 1, 1975 would work irreparable harm on the Securities Division. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in

full force and effect from and after July 1, 1975."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 479, § 16: Mar. 21, 1985. Emergency clause provided: "It has been found, and is declared by the General Assembly of Arkansas, that a great need exists to provide funding for state government response to release of hazardous substances into the environment of the state that threaten the public health and welfare. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall take effect be in force from the date of its approval."

Acts 1985, No. 888, § 26: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1985. Provided, however, that Sections 18, 20 and 21 of this Act shall become effective from and after the passage and approval of this Act."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues col-

lected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

Acts 1997, No. 298, § 18: Feb. 27, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropri-

tions which become effective July 1, 1997 have been made by the Eighty-First General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 1152, § 7: Apr. 6, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the revenues generated by taxing bingo are dwindling; that many bingo parlors have been enjoined by court order as illegal gambling operations; that bingo operators are currently required to register on July 1 of each year and pay a registration fee; that the repeal of the bingo tax provisions will also repeal the need to pay a registration fee; that taxpayers and the Department of Finance and Administration will be relieved of performing unnecessary administrative tasks related to the registration fees if the tax provisions and annual registration requirements are repealed prior to July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If

the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: "It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and

safety shall become effective on July 1, 2003."

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005 have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 182, § 32: Jan. 1, 2008.

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

19-6-201. General revenues enumerated.

The general revenues of the state, as provided by law, shall consist of the following, as described by their commonly known titles:

(1) Sales taxes, as enacted by Acts 1941, No. 386, known as the "Arkansas Gross Receipts Act of 1941", and all laws supplemental or amendatory thereto, § 26-52-101 et seq.;

(2) Use taxes as enacted by Acts 1949, No. 487, known as the “Arkansas Compensating Tax Act of 1949”, Acts 1971, No. 222, and all laws supplemental or amendatory thereto, § 26-53-101 et seq.;

(3) Corporation franchise taxes, as enacted by Acts 1979, No. 889, known as the “Arkansas Corporate Franchise Tax Act of 1979”, and all laws amendatory thereto, § 26-54-101 et seq.;

(4) Corporation income taxes, as enacted by Acts 1929, No. 118, known as the “Income Tax Act of 1929”, Acts 1941, No. 129, and all laws amendatory thereto, § 26-51-101 et seq., with the exception of those additional corporate income taxes set aside as special revenue by § 26-51-205(c)(2);

(5) Individual income taxes, as enacted by Acts 1929, No. 118, known as the “Income Tax Act of 1929”, and all laws amendatory thereto, § 26-51-101 et seq.;

(6) Cigarette taxes and permits and other tobacco products taxes and permits, as enacted by Acts 1977, No. 546, known as the “Arkansas Tobacco Products Tax Act of 1977”, and all laws amendatory thereto, § 26-57-201 et seq.;

(7) Escheat of unclaimed property, as enacted by Acts 1999, No. 850, known as the “Unclaimed Property Act”, and all laws amendatory thereto, § 18-28-201 et seq.;

(8) [Repealed.]

(9) Seventy-five percent (75%) of all severance taxes, with the exception of the taxes paid to sever timber and timber products and those portions of severance taxes designated as special revenues in § 19-6-301, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(10) Sand, gravel, oil, coal, and other mineral royalties, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(11) Oil and gas leases, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(12) Petroleum trade practices civil penalties, as enacted by Acts 1993, No. 380;

(13) Estate taxes, as enacted by Act 1941, No. 136, known as the “Estate Tax Law of Arkansas”, and all laws amendatory thereto, §§ 26-59-101 — 26-59-107, 26-59-109 — 26-59-114, 26-59-116 — 26-59-119, 26-59-121, and 26-59-122;

(14) Those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-101 — 26-60-103 and 26-60-105 — 26-60-112;

(15) State Insurance Department Trust Fund moneys in excess of an amount equal to three (3) fiscal year budgets for the State Insurance Department, § 23-61-710(c);

(16) Large truck speeding fines, § 27-50-311;

(17) Employment agency licenses, as enacted by Act 1975, No. 493, known as the “Arkansas Private Employment Agency Act of 1975”, and all laws amendatory thereto, § 11-11-201 et seq.;

(18) [Repealed.]

(19) Insurance premium taxes, as enacted by Acts 1959, No. 148, known as the "Arkansas Insurance Code", §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201 — 23-61-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835 — 23-63-837, 23-63-838 [repealed], 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-202 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, 23-73-108 [repealed], 23-73-109 [repealed], 23-73-110 — 23-73-116, 23-75-101 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-116, 23-81-117 [repealed], 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610 and all laws amendatory thereto, with the exception of those premium taxes set aside for the various municipal fireman's relief and pension funds, for the various police officers' pension and relief funds, and for the Workers' Compensation Commission and, with the exception of those additional premium taxes set aside for the Fire Protection Premium Tax Fund, § 26-57-614, and insurance premium taxes from domestic insurers not maintaining a home office in this state as enacted by Acts 1979, No. 908, and all laws amendatory thereto, §§ 23-60-102, 26-57-601 — 26-57-605, and 26-57-607;

(20) Horse racing taxes and fees, including the portion of all moneys wagered, as set out in Acts 1957, No. 46, § 23, as amended, §§ 23-110-406, 23-110-407, 23-110-408 [repealed], 23-110-409, and 23-110-410, the annual license fee, ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, one-third ($\frac{1}{3}$) of the unredeemed pari-mutuel tickets, and the license fees of owners, trainers, jockeys, and jockeys' agents, all as enacted by Acts 1957, No. 46, known as the "Arkansas Horse Racing Law", and all laws amendatory thereto, §§ 23-110-101 — 23-110-104, 23-110-201 — 23-110-205, 23-110-301 — 23-110-307, 23-110-401 — 23-110-403, 23-110-404 [repealed], 23-110-405 — 23-110-407, 23-110-408 [repealed], and 23-110-409 — 23-110-415;

(21) Dog racing taxes and fees, including three percent (3%) of all moneys wagered up to and including one hundred twenty-five million

dollars (\$125,000,000) and seven percent (7%) of all moneys wagered in excess of one hundred twenty-five million dollars (\$125,000,000) per calendar year at two hundred forty-four (244) days of racing, one-third ($\frac{1}{3}$) of the odd cents or breaks the daily operating license fee and fees paid by each greyhound owner and trainer, simulcast taxes of two percent (2%) of all moneys wagered up to and including three hundred fifty thousand dollars (\$350,000), three percent (3%) in excess of three hundred fifty thousand dollars (\$350,000) but less than or equal to five hundred thousand dollars (\$500,000), and six percent (6%) in excess of five hundred thousand dollars (\$500,000), per racing performance and ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, as enacted by Acts 1957, No. 191, known as the "Arkansas Greyhound Racing Law", §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, and 23-111-506, 23-111-507 [repealed], 23-111-508 — 23-111-514, and all laws amendatory thereto, and the additional four (4) of six (6) days of racing authorized in § 23-111-504;

(22) Alcoholic beverages taxes, permits, licenses, and fees, including the following:

(A) Liquor gallonage taxes and imported wine taxes, as enacted by Acts 1935, No. 109, and all laws amendatory thereto, §§ 3-7-101 — 3-7-110;

(B) Permits and fees for manufacturer and dispensary privileges, as enacted by Acts 1935, No. 108, known as the "Arkansas Alcoholic Control Act", and all laws amendatory thereto, §§ 3-1-101 — 3-1-103, 3-2-101, 3-2-205, 3-3-101 — 3-3-103, 3-3-212, 3-3-401, 3-3-404, 3-3-405, 3-4-101 — 3-4-103, 3-4-201, 3-4-202, 3-4-207 — 3-4-211, 3-4-213, 3-4-214, 3-4-215 [repealed], 3-4-217, 3-4-219, 3-4-220, 3-4-301 — 3-4-303, 3-4-501, 3-4-503, 3-4-601 — 3-4-605, 3-8-301 — 3-8-310, 3-8-311 [repealed], 3-8-313 — 3-8-317, 3-9-237, and 23-12-708;

(C) Nonintoxicating beer and wine taxes, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, of the Extraordinary Session of 1933, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(D) Brandy taxes and fees, as enacted by Acts 1953, No. 163, known as the "Native Brandy Law", and all laws amendatory thereto, § 3-6-101 et seq.;

(E) The additional taxes on native wine and beer and the additional permits fees for retail liquor and beer permits and wholesale liquor and beer permits, as enacted by Acts 1969, No. 271, and all laws amendatory thereto, §§ 3-7-111 and 3-7-506;

(F) The additional taxes on liquor and native wine, as enacted by Acts 1949, No. 282, and all laws amendatory thereto, §§ 3-3-314 and 3-7-111;

(G) The special alcoholic beverage excise taxes, as enacted by Acts 1951, No. 252, and all laws amendatory thereto, §§ 3-7-201 and 3-7-205;

(H) Wholesale and retail permits and fees for the sale of liquor and beer, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws

amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(I) Restaurant wine permits, as enacted by Acts 1965, No. 120, and all laws amendatory thereto, §§ 3-9-301 — 3-9-303 and 3-9-305 — 3-9-307;

(J) Permits and taxes on alcoholic beverages sold for on-premises consumption, as enacted by Acts 1969, No. 132, and all laws amendatory thereto, §§ 3-9-201 — 3-9-214, 3-9-221 — 3-9-225, and 3-9-232 — 3-9-237;

(K) Seventy cents (70¢) per gallon of the tax levied upon native wine, permits and fees, as enacted by §§ 3-5-401 — 3-5-412 [repealed]; and

(L) Wine sales on-premise licenses, §§ 3-9-601 — 3-9-606;

(23) Sale of confiscated alcoholic beverages, as enacted by Acts 1947, No. 423, and all laws amendatory thereto, §§ 3-3-301 — 3-3-304 [repealed], 3-3-308 [repealed], and 3-3-311 — 3-3-314;

(24) Fees collected by the Alcoholic Beverage Control Division of the Department of Finance and Administration for transcripts and fines for violations, as enacted by Acts 1981, No. 790, and all laws amendatory thereto, §§ 3-2-201, 3-2-217, 3-4-213, 3-4-401 — 3-4-406, 3-4-502, 3-5-305, and 3-5-306;

(25) Any fines, penalties, or court costs received in connection with the collection of any of the revenues enumerated in this section;

(26) Any other taxes, fees, license fees, and permits required to be deposited into the State Treasury as provided by law and not otherwise classified;

(27) Savings and loan associations' application fees, annual fees, amendment fees, examination fees, broker's license fees, and other miscellaneous fees, as enacted by Acts 1963, No. 227, §§ 23-37-101 — 23-37-107, 23-37-201, 23-37-202, 23-37-203 [repealed], 23-37-204, 23-37-205 [repealed], 23-37-206 — 23-37-212, 23-37-213 [repealed], 23-37-214, 23-37-301 — 23-37-315, 23-37-401, 23-37-403, 23-37-405, 23-37-406, 23-37-501 — 23-37-512, 23-37-601 — 23-37-603, and 23-37-701 — 23-37-705;

(28) Credit union charter fees, annual supervision fees, and examination fees, as enacted by Acts 1971, No. 132, § 23-35-101 et seq.;

(29) Sale of checks, investigation fees, annual license fees, semiannual reports filing fees, and examination fees, as enacted by Acts 1965, No. 124, known as the "Sale of Checks Act", §§ 23-41-101 — 23-41-115, 23-41-116 [repealed], and 23-41-117 — 23-41-122 [repealed];

(30) Securities division fees, including loan broker's licenses, mortgage loan company licenses, broker-dealer licenses, agent licenses, investment advisor licenses, agent examination fees, broker-dealer examination fees, statement filing fees, quarterly reports, and proof of exemption filing fees, all as enacted by Acts 1959, No. 254, known as the "Arkansas Securities Act", and all laws amendatory thereto, §§ 23-42-101 — 23-42-110, 23-42-201 — 23-42-212, 23-42-301 — 23-42-308, 23-42-401 — 23-42-405, and 23-42-501 — 23-42-507;

(31) Professional fundraiser and solicitor fees, as enacted by §§ 4-28-401 — 4-28-416;

(32) Unclaimed security deposits, as enacted by Acts 1969, No. 296, as amended by Acts 1975, No. 1007, §§ 27-19-306, 27-19-408, 27-19-501, 27-19-503, 27-19-603, 27-19-609, 27-19-610, 27-19-612, 27-19-619 — 27-19-621, and 27-19-706 — 27-19-708;

(33) Vending devices sales taxes, as enacted in § 26-57-1001 et seq. and that portion of vending device decal fees and penalties provided in § 26-57-1201 et seq.;

(34) Anonymous campaign contributions of fifty dollars (\$50.00) or more, as enacted by Acts 1975, No. 788, and all laws amendatory thereto, §§ 7-6-201 — 7-6-210, 7-6-211 and 7-6-212 [repealed], 7-6-213, and 7-6-214;

(35) Telephonic sellers registration fees, § 4-99-104;

(36) Long-term rental vehicle tax, § 26-63-304;

(37) Arkansas State Highway and Transportation Department miscellaneous fees, permits, penalties, and fines, as enacted by Acts 1955, No. 397, known as the “Arkansas Motor Carrier Act, 1955”, and all laws amendatory thereto, § 23-13-201 et seq.;

(38) Radiation protection civil penalties, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, § 20-21-401 et seq.;

(39) That portion of DWI operator’s license reinstatement fees, § 5-65-119(3), and that portion of “Underage DUI Law” driver’s license reinstatement fees, §§ 5-65-304(d) and 5-65-310(f);

(40) Short-term rental of tangible personal property tax, § 26-63-301;

(41) Excess campaign contributions, as enacted by § 7-6-203;

(42) Retail pet store registration fees, as enacted by § 4-97-104;

(43) Rental vehicle tax, § 26-63-302;

(44) Residential moving tax, § 26-63-303;

(45) Surplus Arkansas Quarry Operation, Reclamation, and Safe Closure Act fees, fines, and bond forfeiture amounts, § 15-57-401 et seq.;

(46) [Repealed.]

(47) [Repealed.]

(48) Arkansas Feed Law of 1997 penalties, § 2-37-113;

(49) Election, voter registration law, and State Board of Election Commissioners fines, § 7-4-101;

(50) Remaining funds on dissolution of ballot question committees or legislative question committees, § 7-9-404;

(51) Uniform Athlete Agents Act registration and renewal fees, § 17-16-109;

(52) Until July 1, 2011, moneys in excess of one million dollars (\$1,000,000) in the Securities Department Fund from collections of securities agents initial or renewal registration filing fees and securities registration statement filing fees, § 23-42-211(a)(4);

(53) Human cloning fines, § 20-16-1002;

(54) Unregistered vehicle temporary cardboard buyer’s tag fees, § 27-14-1705;

(55) Electronic games of skill privilege fees and all permit or license fees, penalties, and fines received by the Arkansas Racing Commission, § 23-113-604; and

(56) Prohibited employment of relatives civil penalties, § 25-16-1001 et seq.

History. Acts 1973, No. 808, § 7; 1975, No. 863, § 6; 1979, No. 1027, §§ 1, 10; 1983, No. 222, §§ 1, 2; 1985, No. 65, §§ 1, 2; 1985, No. 479, § 14; 1985, No. 888, § 16; A.S.A. 1947, § 13-503.6; Acts 1987, No. 792, §§ 1, 6; 1989, No. 551, § 1; 1993, No. 1072, §§ 1, 2, 16; 1993, No. 1073, § 28; 1995, No. 270, §§ 1, 12; 1997, No. 298, §§ 1, 12; 1999, No. 282, §§ 1, 2; 1999, No. 1152, § 3; 2001, No. 229, §§ 1-4; 2003, No. 28, §§ 1-6; 2005, No. 20, § 1; 2007, No. 182, §§ 17-19; 2007, No. 407, § 1.

Amendments. The 2003 amendment

inserted "and other tobacco products taxes and permits" in (6); repealed (8), (18) and (47); rewrote (49); and added (50) and (51).

The 2005 amendment added (52) and (53).

The 2007 amendment by No. 182 substituted "§ 26-63-304" for "§ 26-52-313" in (36), "§ 26-63-301" for "§ 26-52-310" in (40), "§ 26-63-302" for "§ 26-52-311" in (43), and "§ 26-63-303" for "§ 26-52-312" in (44).

The 2007 amendment by No. 407 added (54) through (56).

SUBCHAPTER 3 — SPECIAL REVENUES

SECTION.

19-6-301. Special revenues enumerated.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 863, § 9: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the provisions of this Act are necessary for the proper administration of vital state programs, and that to delay the provisions of this Act beyond July 1, 1975 would work irreparable harm on the Securities Division. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in

full force and effect from and after July 1, 1975."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July

1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 801, § 18: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that the amendments to the Revenue Stabilization law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 888, § 26: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1985. Provided, however, that Sections 18, 20 and 21 of this Act shall become effective from and after the passage and approval of this Act."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 76, § 8: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which ap-

propriations which become effective July 1, 1991, have been made by the Seventy-Eighth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 765, § 22: Mar. 26, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that cities and counties are faced with financial crises with reference to having sufficient tax resources to fund capital improvements of a public nature and to provide services to their inhabitants; that under current law the counties are restricted to a one percent (1%) levy and the cities are restricted to a one-half of one percent (0.05%) or one percent (1%) levy; that the ability to levy a sales and use tax computed on one-fourth of one percent, one-half of one percent, three-fourths of one percent, or one percent (1%) would be a feasible alternative for some cities and counties in financial crisis; and that such financial crises constitute such an emergency that the immediate passage of this act is necessary in order to provide financial relief to the cities and counties. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall take effect and be in full force from and after its passage and approval."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 369, § 7: Feb. 20, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that Amendment Number 35 to the Arkansas Constitution requires the General Assembly to establish the maximum annual resident hunting and fishing license fees that may be charged by the Arkansas Game and Fish Commission; that Amendment 35 to the Arkansas Constitution requires all fees, monies, or funds arising from all sources by the operation and transaction of the Arkansas Game and Fish Commission to be deposited in the Game Protection Fund in the State Treasury; and that the immediate

passage of this Act is necessary to enable the Arkansas Game and Fish Commission to efficiently operate the game and fish program. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 156, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas was amended by Amendment 75; that Amendment 75 enacted an additional sales tax of $\frac{1}{8}\%$ that was divided between the Game and Fish Commission, the Arkansas Department of Parks and Tourism, the Department of Arkansas Heritage, and Keep Arkansas Beautiful; that administrative legislation must be effective July 1, 1997 when the tax becomes effective so that the intent of the amendment is carried out. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 298, § 18: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1997 have been made by the Eighty-First General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 974: Jan. 1, 1998.

Acts 1997, No. 1071, § 7: Apr. 3, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the current funding provisions of the State Police Retirement System are inadequate and that the benefit provisions of

the system must be modified to restore the financial security of the system; that this act accomplishes those purposes; that this act should go into effect as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of

the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: “It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003.”

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is

necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005 have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”

Acts 2007, No. 182, § 32: Jan. 1, 2008.

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

19-6-301. Special revenues enumerated.

The special revenues of the state, its agencies, departments, institutions, commissions, and boards, as provided by law and as required by law to be deposited into the State Treasury, shall consist of the following, as described by their commonly known titles:

(1) The remainder of motor vehicle operator and chauffeur licenses and penalties, as confirmed and enacted by §§ 12-8-301 — 12-8-310, known as the “Department of Arkansas State Police Communications Equipment Leasing Act”, which are not required for debt service requirements that are authorized to be deposited into the State Treasury under §§ 12-8-307 — 12-8-310;

(2) Motor vehicle registration and license fees, as enacted by Acts 1929, No. 65, §§ 26-55-101, 27-14-305, 27-14-601, 27-15-1501 [Repealed], 27-64-104, 27-65-101, 27-65-107, 27-65-110, 27-65-112, 27-65-131 — 27-65-133, 27-67-101, 27-67-102, 27-67-201, 27-67-206 — 27-67-208, 27-67-211, 27-67-214, and 27-67-218, and all laws amendatory thereto, Acts 1965, No. 87, § 27-15-4001, Acts 1959 No. 122, § 27-15-

2101 [Repealed], Acts 1959, No. 189, § 27-15-2003, and Acts 1969, No. 36, §§ 27-15-401 — 27-15-406 [Repealed];

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by § 26-56-101 et seq., known as the “Special Motor Fuels Tax Law”, and all laws amendatory thereto, including the:

(A) Nine and one-half cent (9.5¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1);

(B) Seven and one-half cent (7.5¢) tax on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional four cent (4¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional four cent (4¢) tax on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional five cent (5¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by §§ 26-55-1201(a) and 26-56-601; and

(G) Additional liquefied gas special motor fuels user permit fees levied in § 26-55-1002;

(4) Gasoline taxes, as enacted by § 26-55-201 et seq., including the:

(A) Eight and one-half cent (8.5¢) tax on motor fuels levied by § 26-55-205(a);

(B) Additional one cent (1¢) tax on motor fuels levied by § 26-55-205(b);

(C) Additional four cent (4¢) tax on motor fuels levied by § 26-55-1002(a);

(D) Additional five cent (5¢) tax on motor fuels levied by §§ 26-55-1201(a) and 26-56-601; and

(E) Additional total of three cents (3¢) tax on motor fuels levied by § 26-55-1006;

(5) Fireworks licenses, as enacted by Acts 1961, No. 224, and all laws amendatory thereto, §§ 20-22-701 — 20-22-715;

(6) Timberlands taxes, as enacted by Acts 1969, No. 354, known as the “Forest Fire Protection Tax Act of 1969”, and all laws amendatory thereto, § 26-61-101 et seq., state forests and nurseries management income not deposited into the State Forestry Trust Fund, §§ 15-31-115 and 19-5-927; law enforcement fine collections, §§ 15-31-113 and 15-31-114; and timber management plan fees, § 15-31-111;

(7) Motor vehicle in-transit fees, as enacted by Acts 1935, No. 183, and all laws amendatory thereto, §§ 27-14-1801 — 27-14-1808;

(8) Motor vehicle drive-out licenses, as enacted by Acts 1955, No. 111, §§ 27-14-2101 — 27-14-2105;

(9) Motor vehicle certificates of title and duplicates, noting liens, transfer of registration and duplicate or substitute registration certificates and license plates, § 27-14-602, in excess of and after the

amounts required to pay the principal and interest on loans and bonds have been made under the 1995 New Revenue Division Building Act, Acts 1995, No. 725;

(10) Overweight and special permits for vehicles and overlength crane permits, as enacted by Acts 1955, No. 98, and all laws amendatory thereto, §§ 27-35-201 — 27-35-203, 27-35-206 — 27-35-208, and 27-35-210; and, overwidth or overlength mobile home permits, as enacted by Acts 1971, No. 264, and all laws amendatory thereto, § 27-35-211 and § 27-35-301 et seq.;

(11) Motor vehicle title registration fees and the noting of liens fees, as enacted by Acts 1949, No. 142, known as the “Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft Act”, and all laws amendatory thereto, § 27-14-101 et seq., § 27-14-201 et seq., §§ 27-14-301 — 27-14-304, 27-14-306 — 27-14-308, 27-14-310, 27-14-312, 27-14-313, § 27-14-401 et seq., §§ 27-14-602, 27-14-604, 27-14-606, 27-14-701, 27-14-703, 27-14-705, 27-14-707, 27-14-708, 27-14-710 — 27-14-716, 27-14-718 — 27-14-722, 27-14-801 — 27-14-804, 27-14-901 — 27-14-904, 27-14-905 [repealed], 27-14-906 — 27-14-913, § 27-14-1701 et seq., § 27-14-2001 et seq., §§ 27-14-2203 [repealed], 27-14-2204, 27-14-2205, 27-14-2207, 27-14-2210, and 27-14-2211, which are in excess of the amount required by Acts 1961 (1st Ex. Sess.), No. 38, known as the “Arkansas Revenue Department Building Act”, to be cash funds pledged for the principal and interest payments of the Revenue Department Building Commission revenue bonds;

(12) Soybean assessments, as enacted by Acts 1971, No. 259, §§ 2-20-401, 2-20-403, 2-20-404, and 2-20-406 — 2-20-409;

(13) Paying patients’ fees, excluding those received from Medicare or Medicaid and the Social Security Administration, or from other sources which cause a decrease in the monthly vendor payment, for services provided by the appropriate Division of Behavioral Health and Division of Developmental Disabilities Services divisions and programs of the Department of Human Services;

(14) Fees received by the Arkansas Crime Information Center for driver’s records and other informational services, as enacted by Acts 1971, No. 286, and all laws amendatory thereto, §§ 12-12-201 — 12-12-203, 12-12-206, 12-12-207, 12-12-209, and 12-12-211 — 12-12-213;

(15) Dog racing taxes derived from all revenues from the pari-mutuel tax of fifteen (15) additional days of dog races authorized by §§ 23-111-502 — 23-111-505, and all laws amendatory thereto;

(16) Dog racing taxes derived from two-thirds (⅔) of the net proceeds of three (3) additional days of dog races at each meet, as authorized by § 23-111-503(a)(2), and all laws amendatory thereto;

(17) Aviation sales and use taxes, as enacted by Acts 1967, No. 449, and all laws amendatory thereto, § 27-115-110;

(18) Revenue received from saw timber and timber products severance taxes and twenty-five percent (25%) of all other severance taxes, as enacted by Acts 1947, No. 136, and all laws amendatory thereto,

§§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(19) Motor fuel tax forms, including books and decals, as enacted by Acts 1967, No. 376, § 26-55-713;

(20) Motor boat registration fees, as enacted by Acts 1959, No. 453, and all laws amendatory thereto, §§ 27-101-101 — 27-101-109, § 27-101-201 et seq., §§ 27-101-301 — 27-101-306, and 27-101-308 — 27-101-312;

(21) Three percent (3%) municipal taxes, which are further identified as the three percent (3%) collection cost of the one percent (1%) gross receipts tax levied by a city having a population of not more than thirty thousand (30,000) persons that has been designated as a model city, as authorized by Acts 1968 (1st Ex. Sess.), No. 4, and all laws amendatory thereto, §§ 26-75-501 — 26-75-507;

(22) Drivers' search fees, as enacted by Acts 1977, No. 465, and all laws amendatory thereto, §§ 27-50-901 — 27-50-903, and 27-50-905 — 27-50-911, Acts 1989, No. 241, §§ 27-23-118(b)(2) and 27-23-118(c)(2);

(23) [Repealed.]

(24) Private career education school licenses and fees, as enacted by Acts 1989, No. 906, and all laws amendatory thereto, §§ 6-51-601 — 6-51-617;

(25) Elevator safety board fees, as enacted by Acts 1963, No. 189, and all laws amendatory thereto, §§ 20-24-101 — 20-24-117, and 20-24-119;

(26) Net proceeds derived from the sale of pine grown on state highway rights-of-way or other highway related areas, as enacted by Acts 1983, No. 696, § 22-5-101;

(27) Those insurance premium taxes set aside for firemen's and police officers' pension and relief and related purposes, §§ 24-11-301 and 24-11-809, with the exception of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24-6-209(b);

(28) Bank department charter fees, assessments, and examination fees, as enacted by Acts 1913, No. 113, and all laws amendatory thereto, §§ 16-110-406, 23-30-101 [repealed], 23-31-201 — 23-31-205 [repealed], 23-31-212 — 23-31-215 [repealed], 23-32-102 [repealed], former 23-32-201 — 23-32-204, former 23-32-208, former 23-32-210, 23-32-216 [repealed], 23-32-222 [repealed], 23-32-224 [repealed], 23-32-225 [repealed], 23-32-227 [repealed], 23-32-228 [repealed], 23-32-701 [repealed], 23-32-703 — 23-32-705 [repealed], 23-32-710 [repealed], 23-32-713 [repealed], 23-32-716 [repealed], 23-32-803 [repealed], 23-32-905 [repealed], 23-32-1001 [repealed], 23-32-1002 [repealed], 23-32-1006 [repealed], 23-32-1008 [repealed], 23-32-1101 — 23-32-1103 [repealed], 23-32-1106 [repealed], 23-32-1108 — 23-32-1111 [repealed], 23-33-101 — 23-33-103 [repealed], 23-33-105 [repealed], 23-33-106 [repealed], 23-33-201 — 23-33-207 [repealed], 23-33-212 [repealed], 23-33-213 [repealed], 23-33-301 — 23-33-308 [repealed], 23-33-310 [repealed], 23-34-101 [repealed], 23-34-103 [repealed], 23-34-105 [repealed], 23-34-106 [repealed], 23-34-108 [repealed], 23-34-110 [repealed], and 23-34-111 [repealed];

(29) Industrial loan institutions assessments and examination fees, as enacted by Acts 1941, No. 111, §§ 23-36-101 — 23-36-117;

(30) Various asset forfeiture proceeds, §§ 5-64-505(f)(5)(B), 5-64-505(h)(1)(A), and 5-64-505(i);

(31) Fees recovered from ex-offenders on probation or parole from a facility of the Department of Community Correction, as enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16-93-104;

(32) Liquefied petroleum gas board filing fees, inspection fees, registration fees, permits, and certificates of competency, as enacted by Acts 1965, No. 31, known as the "Liquefied Petroleum Gas Board Act", and all laws amendatory thereto, §§ 15-75-101 — 15-75-108, 15-75-110, 15-75-201 — 15-75-204, 15-75-205 [repealed], 15-75-206 — 15-75-209, 15-75-301 — 15-75-321, and 15-75-401 — 15-75-405;

(33) Brand registration, sales of state brand books, and fees for transfer of brand titles, as enacted by Acts 1959, No. 179, §§ 2-34-201 — 2-34-212;

(34) Arkansas Livestock and Poultry Commission fees and revenues as enacted by Acts 1981, No. 867, and all laws amendatory thereto, § 2-33-113(a), consisting of:

(A) Income from the livestock spraying program, as enacted by Acts 1969, No. 360, and all laws amendatory thereto, §§ 2-33-207 and 2-33-208;

(B) Poultry and egg grading fees as enacted by Acts 1969, No. 220 known as the "Arkansas Egg Marketing Act of 1969", and all laws amendatory thereto, §§ 20-58-201 — 20-58-216;

(C) Acts 1965, No. 49, and all laws amendatory thereto, §§ 2-33-301 — 2-33-305, and 2-33-307;

(D) Acts 1976 (1st Ex. Sess.), No. 1216, and all laws amendatory thereto, §§ 2-33-306 and 2-33-307;

(E) Carcass data information and feeder pig and feeder calf grading fees, as enacted by Acts 1973, No. 454, and all laws amendatory thereto, §§ 2-33-201 — 2-33-206;

(F) Livestock and poultry diagnostic service fees, § 2-33-111;

(G) State, county, and district paid admission surcharges, § 2-33-115(a)(3); and

(H) Small animal testing fees, as enacted by Acts 1981, No. 770, and all laws amendatory thereto, § 2-33-112;

(35) Arkansas Rice Research and Promotion Board assessments, § 2-20-507;

(36) Boiler inspection fees, certificates of competency, permits, examination fees, and licenses, as enacted by Acts 1961, No. 494, and all laws amendatory thereto, §§ 20-23-101 — 20-23-105, 20-23-201 — 20-23-203, 20-23-301 — 20-23-313, and 20-23-401 — 20-23-405;

(37)(A) Motor vehicle insurance reporting penalties, § 27-22-107; and Motor vehicle registration reinstatement fees, § 27-22-104;

(B) Motor vehicle registration reinstatement fees, § 27-22-104;

(38) Special motor-driven cycle and bicycle operators' licenses and certificates, as enacted by §§ 27-20-101 — 27-20-116;

(39) Polygraph examiner's examination and license fees, as enacted by Acts 1967, No. 413, known as the "Polygraph Examiners Act", §§ 17-39-101 — 17-39-109 and 17-39-201 — 17-39-214;

(40) Private investigator's application fees, agency fees, and license fees and security guard fines and fees, as enacted by Acts 1977, No. 429, known as the "Private Investigators and Private Security Agencies Act", and all laws amendatory thereto, §§ 17-40-101 — 17-40-104, 17-40-201 — 17-40-209, 17-40-301 — 17-40-317, 17-40-325 — 17-40-329, 17-40-335 — 17-40-340, 17-40-341 [repealed], 17-40-342 — 17-40-344, and 17-40-350 — 17-40-352;

(41) Cosmetology board examination, registration, license, duplicate license, reinstatements, reciprocity, renewal and delinquent licenses and fees, as enacted by Acts 1955, No. 358, known as the "Cosmetology Act", and all laws amendatory thereto, §§ 17-26-101 — 17-26-105, 17-26-201 — 17-26-210, 17-26-301 [repealed], 17-26-302 — 17-26-304, 17-26-305 [repealed], 17-26-306, 17-26-307, 17-26-308 [repealed], 17-26-309 — 17-26-312, 17-26-313 [repealed], 17-26-314 — 17-26-319, 17-26-320 [repealed], 17-26-321, and 17-26-401 — 17-26-415, 17-26-416 [repealed], 17-26-417, 17-26-418;

(42) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], 22-3-1216 — 22-3-1219 and that portion not declared cash funds paid to the Arkansas Development Finance Authority for deposit in the Correction Facilities Privatization Account of the Correction Facilities Construction Fund, § 22-3-1210(c)(1)(A), of the Department of Correction's income from its farm operations, including sale of farm products and livestock, rental of farm properties, and payments from agencies of the state or federal government in connection with the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all laws amendatory thereto, §§ 12-27-101 — 12-27-105, 12-27-107 — 12-27-109, 12-27-112, 12-27-113, 12-27-115, 12-27-118, 12-27-120, 12-28-102, 12-29-101, former 12-29-102, 12-29-103, 12-29-104, 12-29-107, 12-29-112, 12-29-401, 12-30-301, 12-30-306, 12-30-401, 12-30-403, 12-30-405 — 12-30-407, 12-30-408 [repealed], 16-93-101, 16-93-102, former 16-93-201, 16-93-202 — 16-93-204, 16-93-601, 16-93-610, 16-93-701, 16-93-705, and 25-8-106;

(43) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], 22-3-1216 — 22-3-1219, of the Department of Correction's sales, or dispositions of articles and products manufactured or produced by prison labor, as enacted by Acts 1967, No. 473, known as the "Prison-Made Goods Act of 1967", §§ 12-30-201 — 12-30-207, 12-30-208 [repealed], 12-30-209 — 12-30-214;

(44) [Repealed.]

(45) Interest on investments held in the University of Arkansas Endowment Fund, as enacted by Acts 1945, No. 249 [repealed], and all laws amendatory thereto;

(46) Pest control service work examination fees, operators' licenses, and agents' and solicitors' registration fees, as enacted by Acts 1975, No. 488, known as the "Arkansas Pest Control Law", and all laws amendatory thereto, §§ 17-37-101 — 17-37-107, 17-37-201, and 17-37-203 — 17-37-221;

(47) Liming material registration fees, and vendor's licenses and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas Agricultural Liming Materials Act", §§ 2-19-301 — 2-19-308;

(48) Fertilizer registration fees for manufacturers, jobbers, and manipulators of commercial fertilizers and fertilizer inspection fees, as enacted by Acts 1951, No. 106, and all laws amendatory thereto, §§ 2-19-201 — 2-19-210;

(49) Nursery dealers, agents, and salesmen's license fees, as enacted by Acts 1919, No. 683, known as the "Arkansas Nursery Fraud Act of 1919", and all laws amendatory thereto, §§ 2-21-101 — 2-21-113;

(50) Arkansas Feed Law of 1997 inspection fees, and registration and license fees, § 2-37-101 et seq.;

(51) Pesticide registration fees, as enacted by Acts 1975, No. 410, known as the "Arkansas Pesticide Control Act", and all laws amendatory thereto, §§ 2-16-401 — 2-16-419;

(52) Pesticide commercial, noncommercial, private and pilot applicators' license fees, pesticide dealers' license fees, and inspection and permit fees, as enacted by Acts 1975, No. 389, known as the "Arkansas Pesticide Use and Application Act", and all laws amendatory thereto, §§ 20-20-201 — 20-20-225;

(53) Fees for seed inspection and certificate of inspection tags, as enacted by Acts 1931, No. 73, and all laws amendatory thereto, §§ 2-16-206 and 2-18-101 — 2-18-108;

(54) Agricultural products inspection fees and inspectors' licenses, as enacted by Acts 1925, No. 218, known as the "Agricultural Products Grading Act of 1925", §§ 2-20-101 — 2-20-117;

(55) Inspection, treatment, and certification fees for insect pests and diseases, plants, planting seeds, noxious weeds, or other substance, as enacted by Acts 1917, No. 414, known as the "Arkansas Plant Act of 1917", §§ 2-16-201 — 2-16-214, and Acts 1921, No. 519, known as the "Arkansas Emergency Plant Act of 1921", §§ 2-16-301 — 2-16-310;

(56) Annual license fees, application investigation fees, and fines from precious stones and precious metals buyers, as enacted by Acts 1981, No. 87, and all laws amendatory thereto, §§ 17-23-101 — 17-23-104, and 17-23-201 — 17-23-208;

(57) [Repealed.]

(58) Individual sewage disposal systems fees, as enacted by Acts 1977, No. 402, known as the "Arkansas Sewage Disposal Systems Act", and all laws amendatory thereto, §§ 14-236-101 — 14-236-117;

(59) Hazardous waste transporter, generator, and management facility fees, as enacted by Acts 1980 (1st Ex. Sess.), No. 5 [superseded], and all laws amendatory thereto, and § 8-7-226;

(60) Nuclear planning and response fees collected from each utility in the state which operates one (1) or more nuclear generating facilities, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, §§ 20-21-401 — 20-21-405;

(61) Brine taxes imposed upon all brine produced in the state for the purpose of bromine extraction, as enacted by Acts 1979, No. 759, and all laws amendatory thereto, § 26-58-301;

(62) Oil and Gas Commission fees, including oil and gas assessments, drilling permits, permits for plugging wells, and permits for each salt water well, all as enacted by Acts 1939, No. 105, and all laws amendatory thereto, §§ 15-71-101 — 15-71-112, 15-72-101 — 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 — 15-72-324, and 15-72-401 — 15-72-407, and the portion of taxes levied on salt water used in bromine production, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, § 26-58-111(9);

(63) Arkansas State Game and Fish Commission licenses, fees, tags, permits, and fines, all as authorized by Arkansas Constitution, Amendment 35, annual resident hunting and fishing licenses, §§ 15-42-104 and 15-42-110; all interest earned on Arkansas State Game and Fish Commission funds, § 15-41-110; all fees, compensation, or royalties for mineral leases or permits for lands held in the name of the Arkansas State Game and Fish Commission, § 22-5-809(c)(3); all assessed fines as set out in § 15-41-209; and forty-five percent (45%) of the additional one-eighth of one percent ($\frac{1}{8}$ of 1%) sales and use tax authorized by Arkansas Constitution, Amendment 75;

(64) Plumbers' licenses, examination fees, permits, and registration fees, as enacted by Acts 1951, No. 200, and all laws amendatory thereto, §§ 17-38-101 — 17-38-103, 17-38-201 — 17-38-205, and 17-38-301 — 17-38-310;

(65) Fees for medical identification tags and bracelets, as enacted by Acts 1965, No. 433, § 20-7-119;

(66) [Repealed.]

(67) Seventy-five percent (75%) of child passenger protection act fines, as enacted by Acts 1983, No. 749, known as the "Child Passenger Protection Act", §§ 27-34-101 — 27-34-107;

(68) Dairy products licenses, permits, and fees, as enacted by Acts 1941, No. 114, and all laws amendatory thereto, §§ 20-59-201 — 20-59-247;

(69) Department of Health vital statistics fees and other specified fees, as set out in § 20-7-123;

(70) Arkansas Public Service Commission annual assessment fees, as enacted by Acts 1945, No. 40, §§ 23-2-101, 23-2-103 — 23-2-105, 23-2-108, 23-2-109, 23-2-403, 23-2-406, 23-2-407, 23-2-409, 23-2-413, 23-2-418, 23-3-109, and 23-3-110, and Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-

107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and all laws amendatory thereto;

(71) Arkansas Public Service Commission miscellaneous fees, as enacted by Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and Acts 1949, No. 262, §§ 23-3-109 and 23-16-101 — 23-16-106, and all laws amendatory thereto;

(72) Board of electrical examiners examination, license, and penalty fees, as enacted by Acts 1979, No. 870, § 17-28-101 et seq., § 17-28-201 et seq., and § 17-28-301 et seq., and Acts 1981, No. 132, and all laws amendatory thereto;

(73) Milk inspection fees, as enacted by Acts 1981, No. 587, and all laws amendatory thereto, §§ 20-59-401 — 20-59-407;

(74) Proceeds from sales of tax-forfeited lands, as enacted by Acts 1929, No. 129, and all laws amendatory thereto, § 26-37-210;

(75) Redemption of tax-forfeited lands and quitclaim deed fees, as enacted by Acts 1891, No. 151, and all laws amendatory thereto, § 26-37-310 et seq.;

(76)(A) Commissioner of State Lands fees, including patent fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(B) Deed fees, as enacted by Acts 1931, No. 245, § 22-5-408;

(C) Donation deed fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(D) Field notes and plats fees, as enacted by Acts 1881, No. 12, §§ 22-5-701 and 22-5-702;

(E) Certificate of donation to forfeited land fees, as enacted by Acts 1883, No. 117, § 21-6-203; and

(F) Those fees as specified in Acts 1983, No. 886, § 21-6-203;

(77) Proceeds from sales of islands, as enacted by Acts 1971, No. 148, §§ 22-6-201 and 22-6-203;

(78) Insurance filing fees, renewal fees, amendment fees, reinstatement fees, agents' licenses, brokers' licenses, solicitors' licenses, examination fees, adjusters' licenses, copies of documents and certificates of the commissioner, all as enacted by Acts 1959, No. 148, known as the "Arkansas Insurance Code", and all laws amendatory thereto, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, 23-62-203 [transferred], 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609, [repealed], 23-63-610

— 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835 — 23-63-837, 23-63-838 [repealed] 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-202 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-64-228 [transferred], 23-64-229 [transferred], 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-116, 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610;

(79) Trademark and service-mark registration and assignment fees, as enacted by Acts 1967, No. 81, §§ 4-71-101 — 4-71-114 [repealed];

(80) Milk laboratory antibiotic drug testing program fees and fines, § 20-59-701 et seq.;

(81) Commercial vehicle temporary registration tag fees, as enacted by Acts 1975, (Extended Sess., 1976), No. 1179, and all laws amendatory thereto, § 27-14-1306;

(82) Incorporation fees of railroads, street interurban, or other transportation companies, express companies, sleeping car companies, and private car companies, as enacted by Acts 1911, No. 87, § 23-11-102;

(83) Filing and recording fees for a charter of educational institutions and for filing and recording a certificate for a change of name or provisions of a charter, as enacted by Acts 1911, No. 375, §§ 6-2-101 — 6-2-105, 6-2-106 [repealed], 6-2-107 — 6-2-109, 6-2-111, and 6-2-112;

(84) Fees for filing articles of incorporation and issuing a certificate of incorporation of nonprofit corporations, filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, and for other administrative functions, as enacted by Acts 1963, No. 176, known as the "Arkansas Nonprofit Corporation Act", §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-223;

(85) Articles of incorporation filing fees, articles of amendment filing fees, fees for certified copies, other miscellaneous filing fees and certificates, and for receiving service of process on behalf of a corporation, both foreign and domestic, and all other fees, as enacted by Acts 1965, No. 576, known as the "Arkansas Business Corporation Act", § 4-26-101 et seq.;

(86) Fees collected as authorized under Acts 1961, No. 185, as amended, known as the "Uniform Commercial Code", § 4-1-101 et seq.;

(87) Fees collected for filing articles of incorporation for cooperative marketing associations, as enacted by Acts 1921, No. 116, as amended, known as the "Cooperative Marketing Act", §§ 2-2-401 — 2-2-411, 2-2-413 — 2-2-429;

(88) Fees collected from rural telephone cooperatives, as enacted by Acts 1951, No. 51, as amended, known as the "Rural Telecommunications Cooperative Act", §§ 23-17-201, 23-17-202, 23-17-203 [repealed], 23-17-204 — 23-17-226, 23-17-227 [repealed], 23-17-228 — 23-17-233, 23-17-234 [repealed], 23-17-235 — 23-17-237;

(89) Annual license fees collected from rural electrification corporations, as enacted by Acts 1937, No. 342, as amended, known as the "Electric Cooperative Corporation Act", §§ 23-18-301 — 23-18-322 and 23-18-329 — 23-18-331;

(90) Annual license fees collected from agricultural cooperative associations, as enacted by Acts 1939, No. 153, as amended, §§ 2-2-101 — 2-2-124;

(91) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, §§ 27-16-801, 27-16-805, and 27-16-806(a) and (b);

(92) Fees collected from mutual corporations, excepting insurance companies, having no capital stock for the filing of articles of incorporation, as enacted by Acts 1911, No. 87, § 4-26-1204;

(93) Abstracter's examining licenses and fees, as enacted by Acts 1969, No. 109, as amended, known as the "Abstractor Licensing Law", §§ 17-11-101 — 17-11-103, 17-11-201 — 17-11-204 [repealed], 17-11-301 — 17-11-306, 17-11-320 — 17-11-324, and 17-11-340 — 17-11-343;

(94) Driver education fees, as enacted by Acts 1965, No. 531, §§ 27-18-101, 27-18-102, and 27-18-104 — 27-18-106;

(95) Fees charged by the Veterinary Medical Examining Board for the various examinations, permits, licenses, and certificates issued by the board, as enacted by Acts 1975, No. 650, as amended, §§ 17-101-101 — 17-101-103, 17-101-201 — 17-101-203, and 17-101-301 — 17-101-311;

(96) Receipts from timber severed from state-owned lands and rentals from trespassers on state lands, as enacted by Acts 1931, No. 125, §§ 22-5-602 and 22-5-603;

(97) Annual license fees received from septic tank cleaning businesses, as enacted by Acts 1973, No. 71, §§ 17-45-101 — 17-45-105;

(98) Environmental compatibility and public need certificate initial filing fee, as enacted by Acts 1973, No. 164, and all laws amendatory thereto, §§ 23-18-501 — 23-18-529;

(99) Arkansas Motor Vehicle Commission license fees, as enacted by Acts 1975, No. 388, known as the "Arkansas Motor Vehicle Commission Act", §§ 23-112-101 — 23-112-103, 23-112-105, 23-112-201 — 23-112-205, 23-112-301 — 23-112-311, 23-112-401 [repealed] 23-112-402 — 23-112-404, 23-112-405 [repealed], 23-112-206, and 23-112-501 — 23-112-509;

(100) Arkansas Public Service Commission inspection fees as authorized by Acts 1971, No. 285, § 8, as amended, §§ 23-15-211, 23-15-214, and 23-15-216, for operating the Utility Safety Section;

(101) The additional severance tax levied on oil produced in this state, as enacted by Acts 1977, No. 310, § 4, and all laws amendatory thereto, § 26-58-301;

(102) Arkansas Manufactured Home Commission registration fees and salesperson's licenses, as enacted by Acts 1977, No. 419, known as the "Arkansas Manufactured Homes Standards Act", and all laws amendatory thereto, §§ 20-25-101 — 20-25-112;

(103) Fees charged by the Department of Finance and Administration for removal of minerals or timber from state land as authorized by Acts 1975, No. 524, § 4, as amended, § 22-5-808, but excluding the five dollars (\$5.00) declared to be cash funds to be deposited into the Revenue Department Building Fund in accordance with Acts 1961 (1st Ex. Sess.), No. 38;

(104) All Arkansas Department of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

(105) Interstate fuel user marking fees, fines, and penalties, as enacted by Acts 1979, No. 434, §§ 26-55-708 and 26-55-709, and all laws amendatory thereto;

(106) Motor vehicle title application fees, fines, and penalties, as enacted by Acts 1949, No. 142, § 33, as amended by Acts 1979, No. 439, and Acts 1981, No. 40, and all laws amendatory thereto, § 27-14-705;

(107) Transfers from the Securities Reserve Fund of interest earned on the average daily balance of the State Highway and Transportation Department Fund, including all internal accounts and funds thereof, as enacted by Acts 1979, No. 438, § 27-70-204, and all laws amendatory thereto;

(108) Arkansas Board of Dispensing Opticians examination, license, and registration fees, as enacted by Acts 1981, No. 589, known as the "Ophthalmic Dispensing Act", and all laws amendatory thereto, §§ 17-89-101 — 17-89-106, 17-89-201 — 17-89-204, 17-89-301 — 17-89-307, 17-89-309, 17-89-310, and 17-89-401 — 17-89-404;

(109) Arkansas State Board of Nursing examination and license fees, as enacted by Acts 1971, No. 432, and all laws amendatory thereto, §§ 17-87-101 — 17-87-105, 17-87-201 — 17-87-204, 17-87-301 — 17-87-309, and 17-87-401;

(110) Social work examination and license fees, as enacted by Acts 1999, No. 1122, known as the "Social Work Licensing Act", § 17-103-101 et seq., and all laws amendatory thereto;

(111) Brine production assessments as enacted by Acts 1979, No. 937, § 3(d), as amended, § 15-76-306(d);

(112) Amusement attraction permits, as enacted by Acts 1983, No. 837, known as the "Amusement Ride and Amusement Attraction Safety Insurance Act", §§ 23-89-501 — 23-89-508;

(113) Arkansas Beef Council cattle assessments, § 2-35-401 et seq.;

(114) Native wine taxes, as enacted by Acts 1935, No. 69, § 8, and all laws amendatory thereto, § 3-5-409 [repealed] and Act 906 of 1983, § 3-5-412 [repealed];

(115) Hazardous and toxic materials facility fees, § 12-84-106;

(116) The additional severance tax levied on coal, as enacted by Acts 1983, No. 560, § 26-58-112;

(117) The additional severance tax levied on stone and crushed stone, as enacted by Acts 1983, No. 761, § 26-58-113, and those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105, 26-60-112;

(118) Five percent (5%) of the gross proceeds collected through set-off procedures from debtors who owe money to the State of Arkansas, as enacted by Acts 1983, No. 372, §§ 26-36-301 — 26-36-320;

(119) The first designated portion of real estate transfer taxes for the continuing education of county and circuit clerks, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105, and 26-60-112;

(120) That portion of driver's license reinstatement fees for the Office of Driver Services of the Revenue Division of the Department of Finance and Administration, § 5-65-119(a)(2);

(121) [Repealed.]

(122) Agricultural consultant license fees, § 17-13-101 et seq.;

(123) Arkansas Public Art Program funds set aside within methods of finance for each new state building or major capital improvement on a state building, §§ 13-8-207 and 13-8-208;

(124) Three percent (3%) of local sales and use taxes, which are further identified as the three percent (3%) collection cost of the local sales and use taxes, imposed by cities, as enacted by Acts 1981 (1st Ex. Sess.), No. 25, § 26-75-217, and all laws amendatory thereto, and imposed by counties, as enacted by Acts 1981, (1st Ex. Sess.), No. 26, § 26-74-214, and all laws amendatory thereto;

(125) [Repealed.]

(126) Those portions of vaccination fees imposed at livestock markets, as enacted by Acts 1985, No. 150, and Acts 1985, No. 151, § 2-40-206, and that portion of all fines and penalties resulting from arrests made or citations issued by Arkansas Livestock and Poultry Commission enforcement officers, § 2-33-113(b);

(127) Arkansas Wheat Promotion Board assessments, as enacted by Acts 1985, No. 283, §§ 2-20-601 — 2-20-609;

(128) Driving test examination fees, § 27-16-801(a)(1)(C);

(129) Local exchange carriers access line surcharges, § 23-17-119;

(130) Asbestos removal license fees, §§ 20-27-1001 — 20-27-1007;

(131) Mammography accreditation fees, § 20-15-1005;

(132) Abortion clinic license fees, § 20-9-302;

(133) Child care facility license fees, § 20-78-223;

(134) [Repealed.]

(135) Dog racing taxes derived from the net proceeds of two (2) of the additional six (6) days of dog races, as authorized by § 23-111-504;

- (136) Emergency medical services fees, § 20-13-211;
- (137) Food service establishment and food salvager permits and fees, §§ 20-57-102 and 20-57-201 — 20-57-204;
- (138) Nursing home administrator license application and renewal fees, §§ 20-10-404 and 20-10-405;
- (139) [Repealed.]
- (140) Health maintenance organizations licenses and fees, § 23-76-127;
- (141) Ionizing radiation license and registration fees, § 20-21-217;
- (142) Public Water System Service Act fees, fines, and penalties, § 20-28-101 et seq.;
- (143) Swimming pools regulation fees and fines, §§ 20-30-102 and 20-30-106;
- (144) Department of Health public health laboratory fees, § 20-7-114;
- (145) Additional real estate transfer tax, § 26-60-105(b);
- (146) Two percent (2%) of gross receipts derived from the sale or rental on certain items related to tourism, § 26-63-402;
- (147) Breath testing instrument maintenance fees, § 20-7-128;
- (148) That portion of commercial driver license application fees, § 27-23-118(a)(1); driver search fees, §§ 27-23-118(b)(1) and 27-23-118(c)(1); and all fines, forfeitures, and penalties collected under the Arkansas Uniform Commercial Driver License Act, § 27-23-118(d);
- (149) That portion of commercial driver license application fees, § 27-23-118(a)(2);
- (150) Commercial driver license examination fees, § 27-23-110(d) and temporary permit fees, § 27-16-803(c)(4); and that portion of commercial driver license application fees, § 27-23-118(a)(3);
- (151) Arkansas Catfish Promotion Board assessments, § 2-9-107;
- (152) Turnpike project tolls, §§ 27-90-203 and 27-90-204;
- (153) Regulated substance storage tank license fees and that portion of annual registration fees, § 8-7-802(b); civil penalties collected under § 8-7-806; and that portion of costs collected under § 8-7-807;
- (154) Landfill disposal and transportation fees, § 8-6-606;
- (155) That portion of driver's license reinstatement fees for the Office of Alcohol Testing of the Department of Health, §§ 5-65-119(a)(1), 5-65-304(c), and 5-65-310(f);
- (156) Medicaid Fraud False Claims Act penalties, § 20-77-903(c);
- (157) Child care facility fines and penalties, § 20-78-219;
- (158) Fees for certifying blasters, § 20-27-1102;
- (159) Pseudorabies Control and Eradication Program fees, § 2-40-1201;
- (160) HVACR Licensing Board fees, § 17-33-204;
- (161) Apprentice plumber program fees and payments, § 17-38-408;
- (162) That portion of landfill disposal fees collected when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, § 8-6-607(4);
- (163) Those additional corporate income taxes as specified in § 26-51-205(c)(2);

(164) Those additional insurance premium taxes as specified in § 26-57-614 and the amount of insurance premium taxes transferred due to the provisions of §§ 24-11-301 and 24-11-809;

(165) Imported waste tire fees and that portion of new tire waste tire fees, § 8-9-404;

(166) Commercial medical waste fees and fines, § 20-32-104;

(167) Additional landfill disposal and transportation fees, § 8-6-1003 et seq.;

(168) That portion of annual registration fees for above-ground storage tanks, § 8-7-802(b);

(169) Fees received by the State Plant Board for licensing and regulation of public grain warehouses;

(170) Elder or disabled persons enhanced civil penalties, § 4-88-202;

(171) That portion of estate taxes collected in a calendar year that exceeds ten percent (10%) of the average annual estate taxes collected for a five-year period immediately preceding the calendar year or fifteen million dollars (\$15,000,000), whichever is greater, § 26-59-122(a);

(172)(A) The additional fees assessed or imposed upon insurers, insurance agents, brokers, professional bail bond companies, and other licensees or registrants, § 23-61-711;

(B) The additional professional bail bond company fees, § 17-19-111;

(C) Health maintenance organization fees, § 23-76-127(c);

(D) Professional employer organization biennial license fees, § 23-92-407; and

(E) Employer service assurance organization affidavit fees, § 23-92-414;

(173) That portion of securities agents initial or renewal registration filing fees, § 23-42-304(a)(2) and 23-42-304(a)(4);

(174) That portion of securities registration statement filing fees, § 23-42-404(b)(1);

(175) Background investigation fees, § 12-8-120;

(176) Criminal history information record search fees for noncriminal justice purposes, § 12-12-1012;

(177) Alcohol and drug abuse treatment program application fees and accreditation costs, § 20-64-906;

(178) Marine Sanitation Program fees, §§ 27-101-401 — 27-101-408 [repealed];

(179) [Repealed.]

(180) Arkansas Conservation Corps fee-for-service project fees, § 11-13-105(c);

(181) Arkansas Economic Development Incentive Act of 1993 transfers from general revenues for financial incentive plans, § 15-4-1607;

(182) Alternative fuels taxes, fees, penalties, and interest, as enacted in § 26-62-101 et seq., known as the "Alternative Fuels Tax Law", and all laws amendatory thereto;

(183) Dog racing taxes derived from seventy-five percent (75%) of the net proceeds of six (6) additional days of dog races during each twelve-month period, § 23-111-515;

(184) Transporters of commercial medical waste vehicle inspection fees, § 20-32-105;

(185) Motor vehicle accident report and records of traffic violations photostatic or written copies fees, § 27-53-210;

(186) Unregistered motor vehicle fines, § 27-14-314, and motor vehicle liability insurance fines, § 27-22-103;

(187) Rail and other carriers fees, § 23-16-105;

(188) Life care provider application filing fees, § 23-93-206;

(189) Additional marriage license fees, § 9-30-109;

(190) Used motor vehicle dealer license fees, § 23-112-608, and that portion of used motor vehicle dealer fines, § 23-112-603(c)(1);

(191) State Insurance Department Criminal Investigation Division antifraud assessments and penalties, §§ 23-100-104 and 23-100-105;

(192) Seventy-one percent (71%) of the additional cigarette and tobacco products tax, § 26-57-1101 et seq., as determined by § 26-57-1106;

(193) One-eighth of one cent ($\frac{1}{8}\text{¢}$) gross receipts and compensating taxes, Arkansas Constitution, Amendment 75;

(194) Waterworks operators fees, § 17-51-106;

(195) Equine Infectious Anemia Control and Eradication Program fees, § 2-40-826;

(196) Arkansas Corn and Grain Sorghum Promotion Board assessments, § 2-20-805;

(197) DNA Detection of Sexual and Violent Offenders Act fines, § 12-12-1118;

(198) Sex and Child Offender Registration Act of 1997 fines, § 12-12-910;

(199) [Repealed.]

(200) Thirty percent (30%) of parking fines and fees, § 27-15-305(c);

(201) Twenty-nine percent (29%) of the additional cigarette and tobacco products tax, § 26-57-1103;

(202) Additional driver's license fees, § 27-16-801;

(203) Littering fines, § 8-6-404(d)(2)(B);

(204) Fees from investigations and inspections of various boards' licensees, § 17-80-106;

(205) Body piercing, branding, and tattooing license fees and penalties, § 20-27-1503;

(206) [Repealed.]

(207) [Repealed.]

(208) [Repealed.]

(209) [Repealed.]

(210) Various Department of Health vital statistic fees, § 19-6-485(b);

(211) That portion of fines collected in the Investor Education Fund in excess of one hundred fifty thousand dollars (\$150,000) in any one (1) fiscal year, § 23-42-213(c)(2);

(212) Revenue-generating technology system contract taxes and fees, § 19-11-1101(d);

(213) The first one hundred fifty thousand dollars (\$150,000) of fines collected under §§ 23-42-209, 23-42-308, and 23-42-213(b);

(214) The transfer of up to thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund, Acts 2002 (1st Ex. Sess.), No. 2, § 19-6-486;

(215) Arkansas Biological Agent Registry Act civil penalties, §§ 20-36-104 and 19-6-487;

(216) Drug court program user fees, §§ 16-98-304 and 19-6-489;

(217) Additional marriage license fees, § 16-20-407(b)(2);

(218) That portion of an operator's driving while intoxicated driver's license reinstatement fees, § 5-65-119(a)(4);

(219) That portion of suspended, revoked, or cancelled driver's license reinstatement fees, §§ 27-16-808(b)(2) and 27-16-508(c);

(220) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, §§ 27-16-801, 27-16-805, and 27-16-806(c);

(221) Civil penalties and fines collected under the Arkansas Catfish Marketing Act of 1975, § 20-61-201 et seq., and § 20-61-101;

(222) That portion of penalties collected for failure to pay fees for registration and licensing of motor vehicles, § 27-14-601(e);

(223) Design-use contribution fees, § 27-15-4904;

(224) Mixed drink supplemental taxes on sales of alcoholic beverages, §§ 3-9-213(c)(2)(A) and 3-9-223(c)(2)(A);

(225) Bureau of Standards lab tests or inspection fees, § 4-18-329(c);

(226) Salvage auction buyer's identification card fees, § 23-112-614(b)(5);

(227) Vehicle identification number verification fees, § 27-14-725(d);

(228) Spyware monitoring fines and penalties, § 4-111-104;

(229) That portion of uniform filing fees collected in circuit court under §§ 21-6-403(b)(1) and 16-10-314;

(230) Forfeited bonds; fee assessments; reimbursements for well-site plugging, repair, and restoration costs from well operators; and proceeds from the sale of hydrocarbons and production equipment located at the site of abandoned and orphaned wells, §§ 15-71-110(e) and 15-71-116;

(231) County quorum court special license plate application fees, § 27-24-303(b)(2);

(232) Fees for diagnostic laboratory services of the Division of Agriculture of the University of Arkansas, § 6-64-1013;

(233) That portion of uniform filing fees collected in circuit court under §§ 21-6-403(b)(1) and 16-10-313;

(234) Commercial Motor Vehicle Driving Offenses fines and penalties, § 27-23-114(h)(2);

(235) Criminal History for Volunteer Act fees, § 12-12-1609;

(236) Adult and Long-Term Care Facility Resident Maltreatment Act civil penalties, § 12-12-1706; and

(237) Environmental Site Assessment Consultant and Hazardous Substance Response Contractor Certification Act fees, §§ 8-7-1301 — 8-7-1304, 8-7-1305 — 8-7-1310 [repealed], 8-7-1311.

History. Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No. 1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6.

Amendments. The 2003 amendment by No. 28 substituted “§ 23-111-503(a)(2)” for “§§ 23-111-502 — 23-111-505” in (16); added (37)(B); repealed (44), (57), (66), (134), and (139); substituted “Office of Alcohol Testing” for “Blood Alcohol Pro-

gram” in (155); rewrote (192); and added (201)-(205).

The 2003 amendment by No. 1750 substituted “professional employer organization... § 23-92-414” for “and employee leasing firm annual license fees, § 23-92-309” in (172).

The 2005 amendment substituted “§ 27-22-104” for “§§ 27-22-104 and 27-22-108” in (37)(B); in (91), substituted “That portion of driver’s” for “Driver’s” and “27-16-806(a) and (b)” for “27-16-806”; substituted “§ 23-92-407” for “§ 3-92-407” in (172)(D); added (206)-(222); and deleted former (179) and (199).

The 2007 amendment by No. 182 substituted “§ 26-63-402” for “§ 26-52-1002” in present (146).

The 2007 amendment by No. 407 deleted “5-38-201” preceding “15-31-113” in (6); deleted former (121) and (206) through (209); substituted “State Insurance Department Criminal” for “Insurance Fraud” in (191); and added (223) through (237). The 2007 amendment by No. 873 deleted former (206) and (207).

SUBCHAPTER 4 — SPECIAL REVENUE FUNDS

SECTION.

- 19-6-401. Funds generally.
- 19-6-402. Arkansas Department of Aeronautics Fund.
- 19-6-403. Department of Correction Farm Fund.
- 19-6-404. Department of Arkansas State Police Fund.
- 19-6-405. State Highway and Transportation Department Fund.
- 19-6-406. Public Service Commission Fund.
- 19-6-407. Liquefied Petroleum Gas Fund.
- 19-6-408. Plant Board Fund.
- 19-6-409. Poultry and Egg Grading Fund.
- 19-6-410. Oil and Gas Commission Fund.
- 19-6-411. State Forestry Fund.
- 19-6-412. Bank Department Fund.
- 19-6-413. Cosmetology Operating Fund.
- 19-6-414. [Repealed.]
- 19-6-415. Abstracters’ Examining Board Fund.
- 19-6-416. [Repealed.]
- 19-6-417. Department of Health Plumbers Licensing Fund.
- 19-6-418. Office of Hazardous Materials Emergency Management Revolving Fund.
- 19-6-419. Soybean Promotion Fund.

SECTION.

- 19-6-420. Game Protection Fund.
- 19-6-421. Indigent Patient’s Fund.
- 19-6-422. [Repealed.]
- 19-6-423. Department of Correction Prison Industry Fund.
- 19-6-424. Motor Vehicle Commission Fund.
- 19-6-425. Public Service Commission Utility Safety Fund.
- 19-6-426. Oil Museum Fund.
- 19-6-427. Manufactured Home Standards Fund.
- 19-6-428. Severed Resources Fund.
- 19-6-429. Veterinary Examiners Board Fund.
- 19-6-430. [Repealed.]
- 19-6-431. [Repealed.]
- 19-6-432. Community Correction Revolving Fund.
- 19-6-433. Livestock and Poultry Equine Infectious Anemia Control Fund.
- 19-6-434. Hazardous Waste Permit Fund.
- 19-6-435. Arkansas Nuclear Planning and Response Fund.
- 19-6-436. [Repealed.]
- 19-6-437. Milk Inspection Fees Fund.

SECTION.

- 19-6-438. Board of Dispensing Opticians' Fund.
- 19-6-439. Arkansas State Board of Nursing Fund.
- 19-6-440. Social Work Licensing Fund.
- 19-6-441. Arkansas Beef Council Fund.
- 19-6-442. County and Circuit Clerks Continuing Education Fund.
- 19-6-443. Arkansas Child Passenger Protection Fund.
- 19-6-444. Arkansas Department of Environmental Quality Fee Fund.
- 19-6-445. Arkansas Wine Producers Council Fund.
- 19-6-446. Arkansas Corn and Grain Sorghum Promotion Board Fund.
- 19-6-447. DNA Detection Fund.
- 19-6-448. Livestock and Poultry Commission Disease and Pest Control Fund.
- 19-6-449. Arkansas Wheat Promotion Fund.
- 19-6-450. Individual Sewage Disposal Systems Improvement Fund.
- 19-6-451. Arkansas Rice Research and Promotion Fund.
- 19-6-452. Asbestos Control Fund.
- 19-6-453. Boating Safety Account Fund.
- 19-6-454. Firemen's and Police Officers' Pension and Relief Fund.
- 19-6-455. Sex and Child Offender Registration Fund.
- 19-6-456. Nursing Home Personnel Training Fund.
- 19-6-457. [Repealed.]
- 19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.
- 19-6-459. Commercial Driver License Fund.
- 19-6-460. Crime Lab Equipment Fund.
- 19-6-461. Arkansas Public Art Program Fund.
- 19-6-462. Private Career Education Fund.

SECTION.

- 19-6-463. Regulated Substance Storage Tank Program Fund.
- 19-6-464. Arkansas Catfish Promotion Fund.
- 19-6-465. Child Care Fund.
- 19-6-466. Livestock and Poultry Commission Swine Testing Fund.
- 19-6-467. Work Force 2000 Development Fund.
- 19-6-468. Fire Protection Premium Tax Fund.
- 19-6-469. HVACR Licensing Fund.
- 19-6-470. Apprentice Plumbers Training Fund.
- 19-6-471. Marketing Board Fund.
- 19-6-472. [Repealed.]
- 19-6-473. Elder and Disabled Victims Fund.
- 19-6-474. State Police Equipment Fund.
- 19-6-475. Securities Department Fund.
- 19-6-476. [Repealed.]
- 19-6-477. Governor's Commission on People with Disabilities Fund.
- 19-6-478. [Repealed.]
- 19-6-479. Economic Development Incentive Fund.
- 19-6-480. Livestock and Poultry Special Revenue Fund.
- 19-6-481. [Repealed.]
- 19-6-482. Telecommunications Equipment Fund.
- 19-6-483. [Repealed.]
- 19-6-484. Conservation Tax Fund.
- 19-6-485. Health Department Technology Fund.
- 19-6-486. Arkansas Rainy Day Fund.
- 19-6-487. Health Adequacy Committee Fund.
- 19-6-488. One Percent to Prevent Fund.
- 19-6-489. MAGNUM Drug Court Fund.
- 19-6-490. Marine Sanitation Fund.
- 19-6-491. Domestic Peace Fund.
- 19-6-492. [Repealed.]
- 19-6-493. Public School Facilities Fund.
- 19-6-494 — 19-6-496. [Repealed.]
- 19-6-497. Shared Benefit Payment Fund.
- 19-6-498. Investor Education Fund.
- 19-6-499. Fallen Firefighters' Memorial Fund.

A.C.R.C. Notes. References to "this subchapter" in §§ 19-6-401 — 19-6-479 may not apply to §§ 19-6-480 — 19-6-484 which were enacted subsequently.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the

State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1981, No. 938, § 22: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-third General Assembly that certain amendments to Act 750 of 1973, the Revenue Stabilization Law are essential to the continued financial operation of state government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 801, § 18: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that the amendments to the Revenue Stabilization law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 732, § 5: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby

found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1989 (3rd Ex. Sess.), No. 85, § 4: Nov. 17, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, meeting in Third Extraordinary Session, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government. Therefore, an emergency is hereby declared to exist and this Act being neces-

sary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 76, § 8: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1991, have been made by the Seventy-Eighth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, Nos. 1040 and 1239, § 11: Apr. 8, 1991 and Apr. 10, 1991 respectively. Emergency clauses provided: "It has been found and it is hereby declared by the General Assembly that there is an immediate need for the construction and repair of the State Highway System. For these reasons, it is declared necessary for the preservation of the public peace, health, and safety that this Act become effective without delay. It is, therefore, declared that an emergency exists, and this Act shall take effect from the date of its passage and approval."

Acts 1991, No. 1052, § 9: Apr. 9, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that additional funds are necessary to provide higher quality educational program which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years of education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide the funding necessary to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs; and that it is necessary for this act to become

effective immediately to provide the funding needed for these programs as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 766, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 953, § 24: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which

have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 236, § 34: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1032, § 13: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that in order for the Department of Health to become more efficient in accounting and budgetary practices due to the transfer of the Bureau of Alcohol and Drug Abuse Prevention, changes in various funds are needed; and that the provisions of this Act provide such changes. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 156, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas was amended by Amendment 75; that Amendment 75 enacted an additional sales tax of $\frac{1}{8}\%$ that was divided between the Game and Fish Commission, the Arkansas Department of Parks and Tourism, the Department of Arkansas Heritage, and Keep Arkansas Beautiful; that administrative legislation must be effective July 1, 1997 when the tax becomes effective so that the intent of the amendment is carried out. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 298, § 18: Feb. 27, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1997 have been made by the Eighty-First General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1040, § 11: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some local school districts had previously failed to levy the Base Millage for the maintenance and operational costs, thereby placing those schools in jeopardy of not having sufficient funds available. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropria-

tions which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1315, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the changes required by this act must take effect at the beginning of the state fiscal year and not to do so will disrupt the flow of funds for vocational education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 577, § 8: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that this act must go into effect on the date the biennial appropriation for the Department of Labor goes into effect, which is July 1, 2001, and that the delay in the effective date of this act could work irreparable harm upon the proper administration and provisions of essential government programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

Acts 2001, No. 1642, § 7: Apr. 16, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that due to the extraordinary increase in the number of illicit drug laboratory and criminal drug related cases filed throughout the state additional state resources are needed to examine and identify evidence turned over to the State Crime Laboratory; that constructing and equipping regional crime laboratories will provide the most efficient and effective method of meeting these demands; and that the effectiveness of this Act on the date of its passage and approval is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond the date of its passage and approval could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1646, § 34: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that changes in the state's fiscal laws must take effect at the beginning of the fiscal year and that if the current legislative session is extended such that the 90 day period is later than July 1, 2001 such changes will not be timely. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1681, § 1: Jan. 1, 2002.

Acts 2001, No. 1681, § 5: Apr. 16, 2001. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that this act transfers to the General Improvement Fund those revenues that formerly went to the Economic Development of Arkansas Fund; that those monies transferred to the General Improvement Fund have been appropriated effective July 1, 2001, and that Section 4 of this act must go into effect on July 1, 2001, in order to fund those appropriations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety, Section 4 of this act shall become effective on July 1, 2001, and the remaining sections of this act shall become effective on the date of approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Sections 1, 2, and 3 shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Sections 1, 2, and 3 shall become effective on the date the last house overrides the veto."

Acts 2002 (1st Ex. Sess.), No. 2, § 12: June 12, 2002. Emergency clause provided: "It is found and determined by the General Assembly that the budgetary crisis facing this state may require large reductions in the state Medicaid program, which reductions will cut three federal matching dollars for each state dollar, resulting in a serious threat to the ability of the state Medicaid program to provide adequate care to the state's neediest citizens. Setting aside funds for an Arkansas Rainy Day Fund by shifting the Prevention and Cessation Program Account to a current year budget will make moneys available to assist the state Medicaid program in maintaining its established levels of service in the event that the current revenue forecast is not collected. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: "It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003."

Acts 2003, No. 69, § 13: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2003 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2003."

Acts 2003, No 1266, § 5: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is serious overcrowding in Department of Correction facilities; that the overcrowding is likely to worsen if alternative sentencing measures are not enacted; and that this act is immediately necessary because it is designed to establish a procedure to help alleviate the overcrowding by offering sentencing alternates to person charged with certain drug offenses and should be given immediate effect. Therefore, an emergency is declared to

exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

Acts 2003, No. 1723, § 15: Apr. 22, 2003. Emergency clause provided: “It is found and determined by the Eighty-fourth General Assembly that there is a pressing and immediate need for the construction of a modern public health laboratory; that this act will provide adequate funding for the construction of the laboratory; and that this act must become effective immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003, No. 1774, § 17: Apr. 22, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the discharge of untreated sewage from vessels into waters of the State of Arkansas poses a serious threat to the public health and the environment; that such a serious threat needs to be rectified immediately; and that this act improves the state’s ability to enforce laws relative to marine sanitation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003, No. 1816, § 3: became law without Governor’s signature, May 6, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Joint Committee on Educational Adequacy must report its findings by September 1, 2003; that health care adequacy among school age children in Arkansas is an essential component of any definition

of educational adequacy; that the initial reports of the Health Adequacy Committee created by this act must be available to the Joint Committee on Educational Adequacy before the formulation of the final report. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 70, § 7: Feb. 2, 2004. Emergency clause provided: “It is found and determined by the General Assembly that the State of Arkansas is in great need of additional revenues for improvements, construction, or repair of public school facilities and that providing a tax penalty and interest amnesty program will result in substantial additional revenues. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005 have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the

Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 530, § 10: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2007 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007."

Acts 2007, No. 1055, § 8: Apr. 4, 2007. Emergency clause provided: "It is found and determined by the General Assembly,

that the Constitution of the State of Arkansas requires an adequate education system for the state and that the efficient and effective operation of state government is critical to the health and welfare of the citizens of the state; that the provisions of this Act will provide the necessary funds and procedures to assist in alleviating the effects of an economic downturn on essential government programs; that the effectiveness of this Act on July 1, 2007 is essential to the operation of state government; with the exception that Section 5 in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007, with the exception that Section 5 in this Act shall be in full force and effect from and after the date of its passage and approval, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007; with the exception that Section 5 in this Act shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date of the last house overrides the veto."

19-6-401. Funds generally.

There are created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the following funds which shall consist of those special revenues enumerated in this subchapter for the purpose of each fund.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-402. Arkansas Department of Aeronautics Fund.

The Arkansas Department of Aeronautics Fund shall consist of those special revenues as specified in § 19-6-301(17), there to be used for making grants-in-aid to qualifying airports of this state as authorized by law and for the maintenance, operation, and improvement required by the Arkansas Department of Aeronautics in carrying out the functions, powers, and duties, as set out in § 27-114-101 et seq., or other duties imposed by law upon the department.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 6; 1981, No. 938, § 15; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

A.C.R.C. Notes. Acts 2005, No. 233, § 5, provided: "DISTRIBUTIONS AND TRANSFERS. For any duplicate distribu-

tions or transfers erroneously made to the Arkansas Department of Aeronautics Fund established by Arkansas Code 19-6-402 during the fiscal years 1999 through 2004, shall remain in the fund there to be used for the purposes as provided by law."

19-6-403. Department of Correction Farm Fund.

The Department of Correction Farm Fund shall consist of those revenues as specified in § 19-6-301(42), there to be used for the maintenance, operation, and improvement of the Department of Correction's farming operations. Any surplus accruing in this fund shall, upon determination of that surplus, be transferred to the Department of Correction Inmate Care and Custody Fund Account.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-404. Department of Arkansas State Police Fund.

The Department of Arkansas State Police Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(1), (5), (7), (8), (38)-(40), (56), (94), (128), (150), (168), (175), (184)-(186), (190), (202), (218)-(220), (222), (226), (227), and (234);

(2) Moneys transferred or deposited from the State Administration of Justice Fund; and

(3) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement of the Department of Arkansas State Police in carrying out the functions, powers, and duties as set out by § 12-8-106 or other duties imposed by law upon the department.

History. Acts 1973, No. 808, § 14; 1981, No. 938, § 17; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4;

1991, No. 76, § 3; 1993, No. 1072, § 5; 1995, No. 270, § 4; 1997, No. 298, § 3; 1999, No. 282, § 5; 2003, No. 28, § 17; 2005, No. 20, § 8; 2007, No. 407, § 7.

Amendments. The 2003 amendment inserted “and (202)” and made stylistic changes.

The 2005 amendment substituted “(202), (218), (219), (220) and (222)” for “and (202)” in (1).

The 2007 amendment added “(226), (227) and (234)” and made minor stylistic and punctuation changes in (1).

19-6-405. State Highway and Transportation Department Fund.

The State Highway and Transportation Department Fund shall consist of:

(1) That part of the special revenues as specified in § 19-6-301(2)-(4), (22), (81), (105)-(107), and (182), known as “highway revenue”, as distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., and § 27-70-103 and § 27-72-301 et seq.;

(2) Those special revenues specified in § 19-6-301(10), (152), and (187);

(3) Fifty percent (50%) of § 19-6-301(26);

(4) That portion of § 19-6-301(2) as set out in § 27-14-601(a)(3)(H)(ii)(f);

(5) That portion of § 19-6-301(222);

(6) Those designated revenues as set out in § 26-56-201(e)(1), which consist of the additional total of four cents (4¢) distillate special fuel taxes to be distributed as provided in the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq.;

(7) Federal revenue sharing funds as set out in § 19-5-1005; and

(8) Any federal funds which may become available, there to be used for the maintenance, operation, and improvement required by the Arkansas State Highway and Transportation Department in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 42, and §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 8; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1991, No. 1040, § 2; 1991, No. 1239, § 2; 1993, No. 1072, § 6; 1995, No. 270, § 5; 1997, No. 298, § 4; 2001, No. 229, § 8; 2005, No. 20, § 9.

A.C.R.C. Notes. Acts 1991, No. 1040, § 3, in part, provided: “Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree.”

Acts 1991, No. 1040, § 4, provided: “(a)

This Act shall be liberally construed to accomplish the purposes thereof. This Act shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

“(b) This Act shall be interpreted to supplement existing laws conferring rights and powers upon the Authority and the Commission, and the rights and powers set forth herein shall be regarded as alternative methods for the accomplishment of the purposes of this Act.”

Acts 1991, No. 1239, § 3, provided: “If, for any reason any Section or provision of

this Act shall be held to be unconstitutional or invalid for any reason, such holding shall not affect the remainder of this Act, but this Act, insofar as it is not in conflict with the Constitution of this State or the Constitution of the United States, shall be permitted to stand, and the various provisions of this Act are hereby declared to be severable for that purpose. Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree."

Acts 1991, No. 1239, § 4, provided: "(a)

This Act shall be liberally construed to accomplish the purposes thereof. This Act shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

"(b) This Act shall be interpreted to supplement existing laws conferring rights and powers upon the Authority and the Commission, and the rights and powers set forth herein shall be regarded as alternative methods for the accomplishment of the purposes of this Act."

Amendments. The 2005 amendment inserted present (5) and made related changes.

CASE NOTES

Cited: Arkansas Motor Carriers Ass'n v. Pritchett, 303 Ark. 620, 798 S.W.2d 918 (1990).

19-6-406. Public Service Commission Fund.

The Public Service Commission Fund shall consist of those special revenues as specified in § 19-6-301(70), (71), and (98), there to be used for the maintenance, operation, and improvement required by the Arkansas Public Service Commission in carrying out the functions, powers, and duties as set out in § 23-2-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2001, No. 229, § 9; 2005, No. 20, § 10.

Amendments. The 2005 amendment substituted "and (98)" for "(98), and (199)."

19-6-407. Liquefied Petroleum Gas Fund.

The Liquefied Petroleum Gas Fund shall consist of those special revenues as specified in § 19-6-301(32), there to be used for the maintenance, operation, and improvement required by the Liquefied Petroleum Gas Board in carrying out the functions, powers, and duties as set out in § 15-75-101 et seq., or other duties imposed by law upon the board.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13.

19-6-408. Plant Board Fund.

The Plant Board Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(46), (49)-(55), (122), (169), (221), and (225);

(2) Thirty-one cents (31¢) of the fertilizer inspection fees as set out in §19-6-301(48);

(3) All of those special revenues in §19-6-301(47) with the exception of ten cents (10¢) of the thirty cents (30¢) for tonnage reports;

(4) Nonrevenue receipts from the Fire Ant Poison Cost Sharing Program, § 2-16-105, fees and civil penalties collected under the Arkansas Rice Certification Act, § 2-15-201 et seq., civil penalties collected under the Uniform Weights and Measures Law, § 4-18-301 et seq.; and

(5) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement required by the State Plant Board in carrying out the functions, powers, and duties as set out in §2-16-201 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1989, No. 551, § 4; 1993, No. 1073, § 26; 1995, No. 270, § 6; 2005, No. 20, § 11; 2007, No. 407, § 8.

A.C.R.C. Notes. Acts 1993, No. 1073, § 27, provided: "Any enactment of the Seventy-Ninth General Assembly redesignating the payment of appropriations for the Bureau of Standards from the Bureau of Standards Fund is instead redesignated payable from the Plant Board Fund."

Amendments. The 2005 amendment substituted "(169), and (221)" for "and (169)" in (1).

The 2007 amendment added "and (225)" and made minor stylistic changes in (1); added "fees and civil penalties collected under the Arkansas Rice Certification Act of 2005; § 2-15-201 et seq., civil penalties collected under the Uniform Weights and Measures Law § 4-18-301 et seq., and" and made minor stylistic changes in (4); and deleted "or other duties imposed by law upon the State Plant Board, and those functions, powers, and duties as set out in § 4-18-201 et seq." in (5).

Cross References. Civil penalties, § 4-18-323.

19-6-409. Poultry and Egg Grading Fund.

The Poultry and Egg Grading Fund shall consist of that portion of those special revenues derived from the poultry and egg industry as specified in § 19-6-301(34), there to be used for the maintenance, operation, and improvement required by the Arkansas Livestock and Poultry Commission poultry and egg grading programs, in carrying out the functions, powers, and duties as set out in § 2-33-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

19-6-410. Oil and Gas Commission Fund.

The Oil and Gas Commission Fund shall consist of those special revenues as specified in § 19-6-301(62) and (111), there to be used for the maintenance, operation, and improvement required by the Oil and Gas Commission in carrying out the functions, powers, and duties as set out in § 15-72-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1983, No. 801, § 2; A.S.A. 1947, § 13-503.13.

19-6-411. State Forestry Fund.

The State Forestry Fund shall consist of those special revenues as specified in § 19-6-301(6) and (18) excluding twenty-five percent (25%) of all other severance taxes as set out in § 19-6-301(18), fifty percent (50%) of § 19-6-301(26), and such general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement required by the Arkansas Forestry Commission in carrying out the functions, powers, and duties as set out in § 15-31-101 et seq., or other duties imposed by law upon the Arkansas Forestry Commission.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, 1979, No. 1027, § 7; 1983, No. 222, § 5; § 13-503.13.

19-6-412. Bank Department Fund.

The Bank Department Fund shall consist of those special revenues as set out in § 19-6-301(28)-(30), there to be used for the maintenance, operation, and improvement required by the State Bank Department in carrying out the functions, powers, and duties as set out in §§ 23-46-201 — 23-46-207, or other duties imposed by law upon the department.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2003, No. 28, § 18. substituted “§ 19-6-301(28)-(30)” for “subdivisions (28), (29), and (30) of § 19-6-301” and “§§ 23-46-201 — 23-46-207” for “23-

Amendments. The 2003 amendment 31-201 et seq.”

19-6-413. Cosmetology Operating Fund.

The Cosmetology Operating Fund shall consist of those special revenues as specified in § 19-6-301(41), there to be used for the maintenance, operation, and improvement of the State Board of Cosmetology.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2003, No. 69, § 4. substituted “Cosmetology Operating Fund” for “Cosmetology Contingent Fund” in the section heading and near the beginning of the section; and inserted “and the

Amendments. The 2003 amendment

unexpended balance of moneys remaining in the Cosmetology Board Construction Fund on July 1, 2003.”

19-6-414. [Repealed.]

Publisher’s Notes. This section, concerning the Cosmetology Board Construction Fund, was repealed by Acts 2003, No. 69, § 9. The section was derived from Acts

1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 1997, No. 298, § 5. For present law, see § 19-6-413.

19-6-415. Abstracters’ Examining Board Fund.

The Abstracters’ Examining Board Fund shall consist of those special revenues as specified in § 19-6-301(93), there to be used for the maintenance, operation, and improvement of the Arkansas Abstracters’ Board.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-416. [Repealed.]

Publisher’s Notes. This section, concerning the Department of Labor Boiler Inspection Fund, was repealed by Acts 2001, No. 577, § 3. The section was de-

rived from Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

For present law, see § 19-5-1211.

19-6-417. Department of Health Plumbers Licensing Fund.

The Department of Health Plumbers Licensing Fund shall consist of those special revenues as specified in § 19-6-301(64), there to be used for the maintenance, operation, and improvement required by the Plumbing Section of the Environmental Health Services Division of the Department of Health in carrying out the powers, functions, and duties as set out in § 17-38-101 et seq., and for paying the expenses of administering such funds as may be authorized by law.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-418. Office of Hazardous Materials Emergency Management Revolving Fund.

The Office of Hazardous Materials Emergency Management Revolving Fund shall consist of those special revenues as specified in 19-6-301(115), there to be used for the operations of the office and the enforcement of § 12-84-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1997, No. 298, § 6.

19-6-419. Soybean Promotion Fund.

The Soybean Promotion Fund shall consist of those special revenues as specified in § 19-6-301(12), there to be used for the maintenance, operation, and improvement as required by the Arkansas Soybean Promotion Board in carrying out the powers, functions, and duties as set out in § 2-20-401 et seq.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-420. Game Protection Fund.

The Game Protection Fund shall consist of those special revenues as specified in § 19-6-301(63), thirty-four percent (34%) of those special revenues as specified in § 19-6-301(20), and license plate design-use contribution fees collected under § 27-24-905(b)(2), there to be used for the maintenance, operation, and improvement required by the Arkansas State Game and Fish Commission in carrying out the functions, powers, and duties as set out in the Arkansas Constitution, Amendment 35, and other laws enacted by the General Assembly.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 1989, No. 551, § 5; 2005, No. 20, § 12; 2007, No. 407, § 9.

Amendments. The 2005 amendment substituted “thirty-four percent (34%)” for “forty-five percent (45%).”

The 2007 amendment inserted “and license plate design-use contribution fees collected under § 27-24-905(b)(2),” added “and other laws enacted by the General Assembly,” and made minor stylistic changes.

19-6-421. Indigent Patient’s Fund.

The Indigent Patient’s Fund shall consist of those special revenues as specified in § 19-6-301(15) there to be used to defray the cost of hospitalization and medical services provided to indigent Arkansas patients and for such other purposes as may be authorized or appropriated by law.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2001, No. 1646, § 26.

19-6-422. [Repealed.]

Publisher’s Notes. This section, concerning the Firemen’s Relief and Pension Fund, was repealed by Acts 2001, No. 229, § 14. The section was derived from Acts

1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

For present law, see § 19-6-454.

19-6-423. Department of Correction Prison Industry Fund.

The Department of Correction Prison Industry Fund shall consist of those special revenues as specified in § 19-6-301(43), there to be used for the maintenance, operation, and improvement of the Department of Correction's prison industries activities.

History. Acts 1973, No. 808, § 14;
A.S.A. 1947, § 13-503.13.

19-6-424. Motor Vehicle Commission Fund.

The Motor Vehicle Commission Fund shall consist of those special revenues as specified in § 19-6-301(99), there to be used for the operation, maintenance, improvement, and motor vehicle education and training required by the Arkansas Motor Vehicle Commission in exercising the powers, functions, and duties as set out in § 23-112-101 et seq.

History. Acts 1973, No. 808, § 14;
1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13; Acts 2007, No. 530, § 7.

Amendments. The 2007 amendment inserted "and motor vehicle education and training" and made a related change.

19-6-425. Public Service Commission Utility Safety Fund.

The Public Service Commission Utility Safety Fund shall consist of those special revenues as specified in § 19-6-301(100), there to be used for the maintenance, operation, and improvement of the Office of Pipeline Safety of the Arkansas Public Service Commission in exercising the powers, functions, and duties as set out in § 23-15-201 et seq.

History. Acts 1973, No. 808, § 14;
1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13.

19-6-426. Oil Museum Fund.

The Oil Museum Fund shall consist of those special revenues as specified in § 19-6-301(61) and (101), there to be used for the construction, maintenance, operation, and improvement of the Arkansas Oil and Brine Museum of the State Parks, Recreation, and Travel Commission, in exercising the powers, functions, and duties as set out in § 13-5-401 et seq., and for paying the expenses of administering such funds by the Department of Parks and Tourism as may be authorized by law.

History. Acts 1973, No. 808, § 14;
1979, No. 1027, § 9; 1983, No. 222, § 5;
A.S.A. 1947, § 13-503.13.

19-6-427. Manufactured Home Standards Fund.

The Manufactured Home Standards Fund shall consist of those special revenues as specified in § 19-6-301(102), there to be used for the maintenance, operation, and improvement of the Arkansas Manufactured Home Commission in exercising the powers, functions, and duties as set out in § 20-25-101 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

19-6-428. Severed Resources Fund.

The Severed Resources Fund shall consist of those special revenues as specified in § 19-6-301(103), there to be used in exercising the powers, functions, and duties as set out in § 22-5-801 et seq., or its successor.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

19-6-429. Veterinary Examiners Board Fund.

The Veterinary Examiners Board Fund shall consist of those special revenues as specified in § 19-6-301(95), there to be used for the operation, maintenance, and improvement of the Veterinary Medical Examining Board in exercising the powers, functions, and duties as set out in § 17-101-101 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13.

19-6-430. [Repealed.]

Publisher's Notes. This section, concerning the Tuberculosis Sanatorium Lease Fund, was repealed by Acts 2007, No. 407, § 10. The section was derived

from Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1985, No. 65, § 6; A.S.A. § 13-503.13.

19-6-431. [Repealed.]

Publisher's Notes. This section, concerning Policemen's Pension and Relief Fund, was repealed by Acts 2001, No. 229, § 15. The section was derived from Acts

1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law, see § 19-6-454.

19-6-432. Community Correction Revolving Fund.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Community Correction Revolving Fund".

(b) The fund shall consist of those special revenues as specified in § 19-6-301(31) and fees and sanctions levied by the courts or authorized by the Board of Corrections for participation in specified programs to be paid by offenders on community correction, there to be used for continuation and expansion of community correction programs as established and approved by the board and as may be provided by law.

History. Acts 1993, No. 953, § 5.

A.C.R.C. Notes. References to “this subchapter” in §§ 19-6-401 — 19-6-431 and §§ 19-6-433 — 19-6-467 may not apply to this section which was enacted subsequently.

References to “this chapter” in subchapters 1-4 may not apply to this section, which was enacted subsequently.

Acts 2001, No. 323, § 4 provided: “The ‘Community Punishment Revolving Fund’, as established in Arkansas Code 12-27-133 and 19-6-432, shall hereafter be known as the ‘Community Correction Revolving Fund’.”

Publisher’s Notes. Former § 19-6-

432, concerning the Community Service Revolving Fund, was repealed by Acts 1993, No. 953, § 17. The former section was derived from Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

Acts 1993, No. 953, § 5, is also codified as § 12-27-133.

Acts 1993, No. 953, § 5, provided, in part: “Any fund balances of the Arkansas Adult Probation Commission Fund and the Community Services Revolving Fund on June 30, 1993 shall be transferred to the Community Punishment Revolving Fund.”

19-6-433. Livestock and Poultry Equine Infectious Anemia Control Fund.

The Livestock and Poultry Equine Infectious Anemia Control Fund shall consist of those special revenues as specified in § 19-6-301(195), there to be used for the purpose of defraying the costs of services performed in the Equine Infectious Anemia Control and Eradication Program as set out in § 2-40-801 et seq.

History. Acts 1999, No. 282, § 8.

Publisher’s Notes. Former § 19-6-433, concerning the Court Reporters’ Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts

1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law concerning the Court Reporters’ Fund, see § 19-5-1082.

19-6-434. Hazardous Waste Permit Fund.

The Hazardous Waste Permit Fund shall consist of those special revenues as specified in § 19-6-301(59) and (237) there to be used by the Arkansas Department of Environmental Quality to ensure the proper administration and enforcement of §§ 8-7-201 — 8-7-226 and § 8-7-1301 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13; Acts 1999, No. 1164, § 169; 2007, No. 407, § 11.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: “Arkansas Department of Pollution Control & Ecology’ renamed to

‘Arkansas Department of Environmental Quality’.

“(a) Effective March 31, 1999, the ‘Arkansas Department of Pollution Control & Ecology’ or ‘Department,’ as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its

place, the ‘Arkansas Department of Environmental Quality’ is hereby established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director of the Arkansas Department of Pollution Control & Ecology is directed to identify and revise all inter-agency agreements, financial instruments, funds, and other necessary le-

gal documents in order to effect this change by March 31, 1999.

“(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change.”

Amendments. The 2007 amendment inserted “and subdivision (237)” and “and § 8-7-1301 et seq.”

19-6-435. Arkansas Nuclear Planning and Response Fund.

The Arkansas Nuclear Planning and Response Fund shall consist of those special revenues as specified in § 19-6-301(60) there to be used for the operation and maintenance of the Arkansas Nuclear Planning and Response Program, as set out in § 20-21-401 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-436. [Repealed.]

Publisher’s Notes. This section, concerning the Board of Electrical Examiners Fund, was repealed by Acts 2001, No. 577, § 4. The section was derived from Acts

1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law, see § 19-5-1211.

19-6-437. Milk Inspection Fees Fund.

The Milk Inspection Fees Fund shall consist of those special revenues as specified in § 19-6-301(73) there to be used exclusively for the purpose of defraying the cost of maintenance, operation, and improvement of the Grade “A” milk and milk products inspection program, and any other revenues as may be provided by law.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

also provided for disposition of any unexpended balance of milk inspection fees received prior to March 18, 1981.

Publisher’s Notes. Part of this section

19-6-438. Board of Dispensing Opticians’ Fund.

The Board of Dispensing Opticians’ Fund shall consist of those special revenues as specified in § 19-6-301(108) there to be used for the administration, coordination, and enforcement of § 17-89-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-439. Arkansas State Board of Nursing Fund.

The Arkansas State Board of Nursing Fund shall consist of those special revenues as specified in § 19-6-301(109) there to be used by the Arkansas State Board of Nursing in exercising the powers, functions, and duties as set out in § 17-87-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-440. Social Work Licensing Fund.

The Social Work Licensing Fund shall consist of those special revenues as specified in § 19-6-301(110) there to be used by the Arkansas Social Work Licensing Board in exercising the powers, functions, and duties as set out in the Social Work Licensing Act, § 17-103-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13; Acts 1999, No. 1122, § 4.

19-6-441. Arkansas Beef Council Fund.

The Arkansas Beef Council Fund shall consist of those special revenues as specified in § 19-6-301(113) there to be used in such manner as the Arkansas Beef Council deems appropriate for Arkansas beef promotion and research and for the operation and maintenance of the Arkansas Beef Council office and payment of expenses of the board members as set out in § 2-35-301 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13.

19-6-442. County and Circuit Clerks Continuing Education Fund.

The County and Circuit Clerks Continuing Education Fund shall consist of those special revenues as specified in § 19-6-301(119) there to be used for defraying the expenses of training seminars and other educational projects benefiting county and circuit clerks in this state as set out in § 26-60-101 et seq. and § 16-20-105.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13. **Cross References.** Disposition of funds collected, § 26-60-112.

19-6-443. Arkansas Child Passenger Protection Fund.

The Arkansas Child Passenger Protection Fund shall consist of those special revenues as specified in § 19-6-301(67) and other moneys that may be appropriated, allocated, or donated to such fund, there to be used by the Arkansas Highway Safety Program for the purchase of child passenger safety seats as set out in § 27-34-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13.

19-6-444. Arkansas Department of Environmental Quality Fee Fund.

The Arkansas Department of Environmental Quality Fee Fund shall consist of those special revenues as specified in § 19-6-301(104) there to be used to defray the costs of operating the Arkansas Department of Environmental Quality as set out in §§ 8-1-101 — 8-1-105.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1995, No. 270, § 7; 1999, No. 1164, § 170.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: “‘Arkansas Department of Pollution Control & Ecology’ renamed to ‘Arkansas Department of Environmental Quality’.

“(a) Effective March 31, 1999, the ‘Arkansas Department of Pollution Control & Ecology’ or ‘Department,’ as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its place, the ‘Arkansas Department of Environmental Quality’ is hereby established,

succeeding to the general powers and responsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director of the Arkansas Department of Pollution Control & Ecology is directed to identify and revise all inter-agency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change by March 31, 1999.

“(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change.”

19-6-445. Arkansas Wine Producers Council Fund.

The Arkansas Wine Producers Council Fund shall consist of all funds as may be authorized by law, there to be used for promoting the Arkansas native wine industry, as directed by the Arkansas Wine Producers Council and as set out in § 3-5-701 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13.

19-6-446. Arkansas Corn and Grain Sorghum Promotion Board Fund.

The Arkansas Corn and Grain Sorghum Promotion Board Fund shall consist of those special revenues as specified in § 19-6-301(196) there to

be used for administration, research, and extension to promote the corn and grain sorghum industry, as set out in § 2-20-801 et seq.

History. Acts 1999, No. 282, § 9.

Publisher's Notes. Former § 19-6-446, concerning the Highway Safety Special Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts 1973, No. 808, § 14; 1985, No. 65,

§ 7; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1995, No. 270, § 15.

For present law concerning the Highway Safety Special Fund, see § 19-5-1080.

19-6-447. DNA Detection Fund.

The DNA Detection Fund shall consist of those special revenues as specified in § 19-6-301(197) there to be used for the administration of the DNA Detection of Sexual and Violent Offenders Act, § 12-12-1101 et seq.

History. Acts 1999, No. 282, § 10.

Publisher's Notes. Former § 19-6-447, concerning the Alcohol and Drug Safety Fund, was repealed by Acts 1995, No. 1032, § 9. The section was derived

from Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4.

For present law, see §§ 19-5-307 and 19-5-1083.

19-6-448. Livestock and Poultry Commission Disease and Pest Control Fund.

The Livestock and Poultry Commission Disease and Pest Control Fund shall consist of those special revenues as specified in § 19-6-301(126) there to be used in order to fund or partially fund the brucellosis control and eradication program as set out in Act 150 of 1985 and Act 151 of 1985.

History. Acts 1973, No. 808, § 14; 1985, No. 888, § 14; A.S.A. 1947, § 13-503.13.

Publisher's Notes. Identical Acts

1985, Nos. 150 and 151, referred to in this section, were identical and are codified as §§ 2-33-108, 2-40-502, 2-40-201 — 2-40-209.

19-6-449. Arkansas Wheat Promotion Fund.

The Arkansas Wheat Promotion Fund shall consist of those special revenues as specified in § 19-6-301(127) there to be used for the operation of the Arkansas Wheat Promotion Board as set out in §§ 2-20-601 — 2-20-609.

History. Acts 1973, No. 808, § 14; 1985, No. 888, § 14; A.S.A. 1947, § 13-503.13.

19-6-450. Individual Sewage Disposal Systems Improvement Fund.

The Individual Sewage Disposal Systems Improvement Fund shall consist of that portion of those special revenues as specified in § 19-6-301(58) there to be used by the Environmental Health Services Division

of the Department of Health for, and in the manner recommended by, the Advisory Committee on Individual Sewage Disposal Systems for implementation of the utilization and application of alternate and experimental individual sewage disposal systems as set out in § 14-236-101 et seq.

History. Acts 1973, No. 808, § 14; § 13-503.13; Acts 1989, No. 551, § 6; 1985, No. 65, § 7; A.S.A. 1947, 1993, No. 1072, § 7.

19-6-451. Arkansas Rice Research and Promotion Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the Arkansas Rice Research and Promotion Fund.

(b) The Arkansas Rice Research and Promotion Fund shall consist of those special revenues as specified in § 19-6-301(35) there to be used for the operation of the Arkansas Rice Research and Promotion Board as set out in § 2-20-501 et seq.

(c) This fund shall be used for the operation of the Arkansas Rice Research and Promotion Board in carrying out the powers, functions, and duties as may be provided by law and shall consist of those revenues as may be provided by law.

History. Acts 1985, No. 732, § 2; A.S.A. 1947, § 13-563; Acts 1987, No. 792, § 4.

19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of those special revenues as specified in § 19-6-301(130) there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable asbestos materials from facilities by the Arkansas Department of Environmental Quality, as set out in § 20-27-1001 et seq.

History. Acts 1987, No. 792, § 5; 1999, No. 1164, § 171.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: “‘Arkansas Department of Pollution Control & Ecology’ renamed to ‘Arkansas Department of Environmental Quality’.

“(a) Effective March 31, 1999, the ‘Arkansas Department of Pollution Control & Ecology’ or ‘Department,’ as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its place, the ‘Arkansas Department of Environmental Quality’ is hereby established, succeeding to the general powers and re-

sponsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director of the Arkansas Department of Pollution Control & Ecology is directed to identify and revise all inter-agency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change by March 31, 1999.

“(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change.”

19-6-453. Boating Safety Account Fund.

The Boating Safety Account Fund shall consist of those special revenues as specified in § 19-6-301(20) there to be distributed in the manner and to the various funds as provided in § 27-101-111.

History. Acts 1989, No. 551, § 7.

19-6-454. Firemen's and Police Officers' Pension and Relief Fund.

The Firemen's and Police Officers' Pension and Relief Fund shall consist of those special revenues as specified in § 19-6-301(27), there to be used for distribution to the various qualified city, town, or fire protection district police officers' pension and relief funds and firemen's pension funds as set out in § 24-11-301.

History. Acts 2001, No. 229, § 10.

Fund, was repealed by Acts 1999, No. 282,

Publisher's Notes. Former § 19-6-454, concerning Child Care Providers'

§ 12. The section was derived from Acts 1989, No. 551, § 7; 1997, No. 298, § 7.

19-6-455. Sex and Child Offender Registration Fund.

The Sex and Child Offender Registration Fund shall consist of those special revenues as specified in § 19-6-301(198), there to be used for the administration of the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq.

History. Acts 1999, No. 282, § 11.

For present law concerning Arkansas

Publisher's Notes. Former § 19-6-455, concerning Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts 1989, No. 551, § 7.

Counties Alcohol and Drug Abuse and Crime Prevention Program Fund, see § 19-5-1083.

19-6-456. Nursing Home Personnel Training Fund.

The Nursing Home Personnel Training Fund shall consist of those special revenues as specified in § 19-6-301(138) there to be utilized by the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services for development and implementation of training programs as set out in § 20-10-401 et seq.

History. Acts 1989, No. 551, § 7.

19-6-457. [Repealed.]

Publisher's Notes. This section, concerning the Aging and Adult Services Special Revenue Fund, was repealed by Acts

2003, No. 28, § 21. The section was derived from Acts 1989 (3rd Ex. Sess.), No. 85, § 1; 1995, No. 1032, § 6.

19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.

There is created on the books of the Treasurer of State and the Chief Fiscal Officer of the State a fund to be known as the Developmental Disabilities Services — Dog Track Special Revenue Fund which shall consist of those special revenues as specified in § 19-6-301(16), there to be used for the sole benefit of community programs of the Division of Developmental Disabilities Services of the Department of Human Services licensed by the division.

History. Acts 1989 (3rd Ex. Sess.), No. 85, § 2; 2003, No. 28, § 19.

Amendments. The 2003 amendment substituted “special revenues as specified in § 19-6-301(16)” for “special revenues designated in § 23-111-503(a)(2)” and substituted “community programs of the Division of Developmental Disabilities

Services of the Department of Human Services licensed by the division” for “the Department of Human Services, Division of Developmental Disabilities Services community programs licensed by the Division of Developmental Disabilities Services.”

19-6-459. Commercial Driver License Fund.

The Commercial Driver License Fund shall consist of those special revenues as specified in § 19-6-301(148) there to be used to establish and maintain the Arkansas Commercial Driver License program and for other related purposes as required by the commissioner in carrying out the functions, powers, and duties of the Revenue Division of the Department of Finance and Administration, as set out in § 27-23-101 et seq.

History. Acts 1991, No. 76, § 4.

19-6-460. Crime Lab Equipment Fund.

The Crime Lab Equipment Fund shall consist of those special revenues as specified in § 19-6-301(30) and other moneys as authorized by law, there to be used only for the purchase of equipment, constructing and equipping regional crime laboratories, and for the personal services and operating expenses of regional crime laboratories as set out in § 12-12-323.

History. Acts 2001, No. 229, § 11; 2001, No. 1642, § 4.

Publisher’s Notes. Former § 19-6-460, concerning Department of Human Services Uninsured Children’s Fund, was

repealed by Acts 1999, No. 282, § 13. The section was derived from Acts 1991, No. 76, § 4.

Acts 2001, No. 229 created the current section.

19-6-461. Arkansas Public Art Program Fund.

The Arkansas Public Art Program Fund shall consist of those special revenues as specified in § 19-6-301(123) there to be used for the administration of the Arkansas Public Art Program by the Arkansas Arts Council as set out in § 13-8-201 et seq.

History. Acts 1993, No. 1072, § 8.

A.C.R.C. Notes. Former § 19-6-461, concerning the Drug Abuse Prevention and Statistical Reporting Fund, is deemed

to be superseded by this section. The former section was derived from Acts 1991, No. 76, § 4.

19-6-462. Private Career Education Fund.

The Private Career Education Fund shall consist of those special revenues as specified in § 19-6-301(24) there to be used for the maintenance and operations of the State Board of Private Career Education in carrying out the functions, powers, and duties as set out in § 6-51-601 et seq.

History. Acts 1991, No. 76, § 4.

19-6-463. Regulated Substance Storage Tank Program Fund.

The Regulated Substance Storage Tank Program Fund shall consist of those special revenues as specified in § 19-6-301(153) federal funds, and any state matching funds as may be provided by the General Assembly, there to be used for the administration of the Regulated Substance Storage Tank program as set out in § 8-7-801 et seq.

History. Acts 1991, No. 76, § 4.

19-6-464. Arkansas Catfish Promotion Fund.

The Arkansas Catfish Promotion Fund shall consist of those special revenues as specified in § 19-6-301(151), there to be used for Arkansas catfish promotion and research and for the operation and maintenance of the Arkansas Catfish Promotion Board office and payment of board member expenses, as set out in § 2-9-112.

History. Acts 2001, No. 229, § 12.

Publisher's Notes. A parallel section concerning the Arkansas Catfish Promo-

tion Fund, § 19-5-1091, was repealed by Acts 2001, No. 1646, § 15.

19-6-465. Child Care Fund.

The Child Care Fund shall consist of those special revenues as specified in § 19-6-301(133) and (157) and moneys received from the Department of Human Services, there to be used by the Division of Child Care and Early Childhood Education of the Department of Human Services exclusively to provide grants to child care facilities for enhancement of the facility or for training of personnel in child care facilities and to meet the costs of conducting the statewide criminal records checks required under § 20-78-602, all as set out in § 20-78-201 et seq.

History. Acts 1991, No. 76, § 4; 1999, No. 282, § 7.

19-6-466. Livestock and Poultry Commission Swine Testing Fund.

The Livestock and Poultry Commission Swine Testing Fund shall consist of those special revenues as specified in § 19-6-301(159) there to be used for the Pseudorabies Control and Eradication Program as set out in § 2-40-1201.

History. Acts 1993, No. 1072, § 9.

A.C.R.C. Notes. Former § 19-6-466, concerning the Environmental Education

Fund, is deemed to be superseded by this section. The former section was derived from Acts 1991, No. 746, § 1.

19-6-467. Work Force 2000 Development Fund.

The Work Force 2000 Development Fund shall consist of those special revenues as specified in § 19-6-301(163) and all other revenues as may be authorized by law, there to be used exclusively for the authorized educational activities of those entities as set out in §§ 26-51-205(d)(1)(A) and 26-51-205(d)(1)(B) and as distributed under § 26-51-205(d)(2).

History. Acts 1991, No. 1052, § 2; 1993, No. 1072, § 10; 1999, No. 1315, § 4.

A.C.R.C. Notes. The State Board of Higher Education was abolished and transferred to the Arkansas Higher Education Coordinating Board by Acts 1997, No. 1114, § 1.

Acts 1997, No. 803, abolished the State

Board of Vocational Education and transferred its power and duties to the State Board of Workforce Education and Career Opportunities.

Publisher's Notes. Acts 1991, No. 1052, § 2, is also codified as § 26-51-205(c)(1).

19-6-468. Fire Protection Premium Tax Fund.

(a) There is created upon the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the Fire Protection Premium Tax Fund, which shall consist of those special revenues as specified in § 19-6-301(164) there to be used for fire protection services as set out in § 26-57-614 and § 14-284-401 et seq.

(b) The Insurance Commissioner shall immediately deposit all moneys collected under § 26-57-614 and § 14-284-401 et seq. into the Revenue Holding Fund Account as provided in § 19-5-204. On the last business day of each quarter, the Chief Fiscal Officer of the State shall determine the amount of net special revenues to be transferred to the Fire Protection Premium Tax Fund by the Treasurer of State. The Chief Fiscal Officer of the State shall be the disbursing officer for the fund, and shall distribute the moneys as provided in § 26-57-614 and § 14-284-401 et seq.

(c) The Insurance Commissioner shall disburse any refunds which may be due insurance carriers from the Miscellaneous Revolving Fund after certifying to the Chief Fiscal Officer of the State the amount to be refunded. The Chief Fiscal Officer of the State shall direct that the certified amount be transferred from the Revenue Holding Fund

Account to the Miscellaneous Revolving Fund as provided in § 19-5-106(a)(3).

History. Acts 1993, No. 1072, § 11.

19-6-469. HVACR Licensing Fund.

The HVACR Licensing Fund shall consist of those special revenues as specified in § 19-6-301(160) there to be used for the maintenance, operation, and improvement of the Heating, Ventilation, Air Conditioning, and Refrigeration (HVACR) Licensing and Inspection program of the Department of Health as set out in § 17-33-201 et seq.

History. Acts 1993, No. 1072, § 12.

19-6-470. Apprentice Plumbers Training Fund.

The Apprentice Plumbers Training Fund shall consist of those special revenues as specified in § 19-6-301(161) there to be used for the maintenance, operation, and improvement of the apprentice plumbers training program administered by the Department of Education as set out in § 17-38-401 et seq.

History. Acts 1993, No. 1072, § 12.

19-6-471. Marketing Board Fund.

The Marketing Board Fund shall consist of those special revenues as specified in § 19-6-301(162), there to be used by the State Marketing Board for Recyclables for the administration and performance of its duties, as administered by the Arkansas Department of Environmental Quality as set out in § 8-9-201 et seq.

History. Acts 1993, No. 1072, § 12; 1999, No. 1164, § 172.

A.C.R.C. Notes. Acts 1997, No. 1219, § 2, provided: “‘Arkansas Department of Pollution Control & Ecology’ renamed to ‘Arkansas Department of Environmental Quality’.

“(a) Effective March 31, 1999, the ‘Arkansas Department of Pollution Control & Ecology’ or ‘Department,’ as it is referred to or empowered throughout the Arkansas Code Annotated, is hereby renamed. In its place, the ‘Arkansas Department of Environmental Quality’ is hereby established, succeeding to the general powers and re-

sponsibilities previously assigned to the Arkansas Department of Pollution Control & Ecology. The Director of the Arkansas Department of Pollution Control & Ecology is directed to identify and revise all inter-agency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change by March 31, 1999.

“(b) Nothing in this Act shall be construed as impairing the powers and authorities of the Arkansas Department of Pollution Control and Ecology prior to the effective date of the name change.”

19-6-472. [Repealed.]

A.C.R.C. Notes. Acts 2001, No. 1681, §§ 1 and 3, provided: “SECTION 1. Effective January 1, 2202, the Eco-

nomic Development of Arkansas Fund Commission, as set out in § 26-59-122 is abolished.

“SECTION 3. Any balance in the Economic Development of Arkansas Fund on January 1, 2002, shall be transferred to the General Improvement Fund.”

Publisher's Notes. This section, con-

cerning the Economic Development of Arkansas Fund, was repealed by Acts 2001, No. 1681, § 2, effective January 1, 2002. The section was derived from Acts 1993, No. 590, § 1; 1995, No. 270, § 8.

19-6-473. Elder and Disabled Victims Fund.

The Elder and Disabled Victims Fund shall consist of those special revenues as specified in § 19-6-301(170) there to be used for the investigation and prosecution of deceptive acts against elder persons and individuals with disabilities and for consumer education initiatives directed toward elder persons and individuals with disabilities, law enforcement officers, the judicial system, social services professionals, and the general public on the provisions of the Arkansas Deceptive Trade Practices Act, § 4-88-101 et seq., and related statutes.

History. Acts 1993, No. 138, § 2; 1995, No. 270, § 9.

Publisher's Notes. Acts 1993, No. 138, § 2, is also codified as § 4-88-207.

19-6-474. State Police Equipment Fund.

The State Police Equipment Fund shall consist of:

(1) Fifty percent (50%) of those special revenues as specified in § 19-6-301(176) and (235) there to be used for the acquisition, operation, and expansion of an automated fingerprint identification system and for personal services and operating expenses for conducting criminal background checks for noncriminal justice purposes; and

(2) Effective July 1, 1997, for those purposes as set out in §§ 12-12-1012(b) and 12-12-1609.

History. Acts 1993, No. 766, § 5; 1995, No. 270, § 10; 1999, No. 282, § 6; 2007, No. 407, § 12.

Amendments. The 2007 amendment inserted “and subdivision (235)” and added “and § 12-12-1609.”

19-6-475. Securities Department Fund.

The Securities Department Fund shall consist of those special revenues as specified in § 19-6-301(211) and until July 1, 2011, the first one million dollars (\$1,000,000) of those special revenues as specified in § 19-6-301(173) and (174), and such other funds as may be provided by law or regulatory action, there to be used for the maintenance, operation, support, and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law, as set out in § 23-42-211.

History. Acts 1995, No. 270, § 11; 2005, No. 20, § 13.

Amendments. The 2005 amendment substituted “§ 19-6-301(211) and until July 1, 2011, the first one million dollars

(\$1,000,000) of those special revenues as specified in § 19-6-301(173) and (174)” for “subdivisions (173) and (174) of § 19-6-301.”

19-6-476. [Repealed.]

A.C.R.C. Notes. Identical Acts 1995, Nos. 924 and 937, § 3, provided: "All funds previously credited to the 'Computerized Voter Registration Fund' shall be used exclusively by the State Board of Election Commissioners for funding a computerized statewide voter registration system."

Publisher's Notes. This section, concerning the Computerized Voter Registration Fund, was repealed by Acts 2007, No. 320, § 7. The section was derived from Acts 1995, No. 270, § 11; 1997, No. 298, § 8.

Cross References. Computerized voter registration lists, § 7-5-109.

19-6-477. Governor's Commission on People with Disabilities Fund.

The Governor's Commission on People with Disabilities Fund shall consist of those special revenues as specified in § 19-6-301(200), there to be used for the purpose of funding activities of the Arkansas Governor's Commission on People with Disabilities, as set out in § 27-15-305.

History. Acts 2001, No. 229, § 13.

Publisher's Notes. Former § 19-6-477, concerning Crater of Diamonds State

Park Improvement Fund, was repealed by Acts 1999, No. 15, § 5. The section was derived from Acts 1995, No. 270, § 11.

19-6-478. [Repealed.]

Publisher's Notes. This section, concerning Voter Registration Signature Imaging System Fund, was repealed by Acts

2005, No. 20, § 14. The section was derived from Acts 1995, No. 270, § 11; 1997, No. 1104, § 2.

19-6-479. Economic Development Incentive Fund.

The Economic Development Incentive Fund shall consist of those special revenues as specified in § 19-6-301(181) there to be used for financial incentive plans to provide businesses with an incentive to locate a new facility or expand an existing facility in Arkansas and for the other purposes as set out in the Arkansas Economic Development Incentive Act of 1993, § 15-4-1601 et seq.

History. Acts 1995, No. 270, § 11.

19-6-480. Livestock and Poultry Special Revenue Fund.

The Livestock and Poultry Special Revenue Fund shall consist of those special revenues as specified in § 19-6-301(33) and (34) which are not required for support of the Arkansas Livestock and Poultry Commission Poultry and Egg Grading Program, there to be used for those purposes as set out by law. The Executive Director of the Arkansas Livestock and Poultry Commission, with the approval of the Chief Fiscal Officer of the State, shall have the authority to transfer funds from the Livestock and Poultry Special Revenue Fund to the Livestock and Poultry Fund Account.

History. Acts 1995, No. 236, § 24; 1997, No. 298, § 9.

19-6-481. [Repealed.]

Publisher’s Notes. This section, concerning the Public School Support Fund, was repealed by Acts 1997, No. 1173, § 3. The section was derived from Acts 1995, No. 916, §§ 1, 3, 4; 1997, No. 298, § 10; 1997, No. 1040, § 4.

Pursuant to § 1-2-207, the amendments to this section by Acts 1997, Nos. 298 and 1040 are superseded by its repeal by Acts 1997, No. 1173.
Cross References. Public School Fund, § 19-5-305.

19-6-482. Telecommunications Equipment Fund.

The Telecommunications Equipment Fund shall consist of those special revenues as specified in § 19-6-301(129). The fund shall be used exclusively by the Arkansas Rehabilitation Services to fund an equipment distribution program for persons certified as deaf, hard of hearing, deaf and blind, or speech-impaired as provided otherwise in § 20-79-401 et seq.

History. Acts 1995, No. 501, § 4; 1997, No. 298, § 11; 2001, No. 530, § 1.
A.C.R.C. Notes. References to “this subchapter” in §§ 19-6-401 — 19-6-479 may not apply to this section which was enacted subsequently.
Acts 1997, No. 1080, § 14, provided, in part, that “to the extent any provisions of this act conflict with any provisions of Act

501 of 1995 the provisions of Act 501 shall prevail.”
The Vocational and Technical Education Division of the Department of Education was abolished and transferred to the Department of Workforce Education by a type 3 transfer under § 25-2-106 by Acts 1997, No. 803, § 4.

19-6-483. [Repealed.]

Publisher’s Notes. This section, concerning the Parks and Tourism — Retirement and Relocation Division Fund, was

repealed by Acts 2003, No. 28, § 22. The section was derived from Acts 1995, No. 1255, § 7.

19-6-484. Conservation Tax Fund.

The Conservation Tax Fund shall consist of those special revenues as specified in § 19-6-301(193) there to be distributed to the fund accounts as set out below, which are created by this section unless specifically created in other provisions of the Arkansas Code, and under the following procedures:

(1) The Revenue Division of the Department of Finance and Administration shall deposit the funds collected under § 26-52-101 et seq. for gross receipts taxes and § 26-53-101 et seq. for compensating taxes into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund;

(2)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the State Treasurer the estimated amount of gross receipts and compensating tax collections in the Revenue

Holding Fund Account that are a result of the changes by the passage of Arkansas Constitution, Amendment 75.

(B) The State Treasurer shall then transfer the amount so certified to the Special Revenue Fund Account of the State Apportionment Fund as part of the gross special revenues.

(C) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Conservation Tax Fund.

(D) The remaining gross receipts and compensating tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.; and

(3) The State Treasurer shall then make the following transfers from the Conservation Tax Fund to the fund accounts set out below at the end of each month:

(A) Forty-five percent (45%) to the Game Protection Fund to be used exclusively by the Arkansas State Game and Fish Commission as appropriated by the General Assembly;

(B) Forty-five percent (45%) to the Department of Parks and Tourism Fund Account to be used by the Department of Parks and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas Department of Heritage Fund Account to be used exclusively by the Department of Arkansas Heritage as appropriated by the General Assembly; and

(D)(i) One percent (1%) to the Keep Arkansas Beautiful Fund Account to be used exclusively by Keep Arkansas Beautiful as appropriated by the General Assembly.

(ii) The Keep Arkansas Beautiful Fund Account shall also consist of the special revenues as specified in § 19-6-301(203).

History. Acts 1997, No. 156, § 1; 2003, No. 28, § 20. added (3)(D)(ii); and corrected a typographical error in present (3)(D)(i).

Amendments. The 2003 amendment

19-6-485. Health Department Technology Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Health Department Technology Fund".

(b) The fund shall consist of:

(1) Three dollars (\$3.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(H)(i);

(2) Four dollars (\$4.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(I)(i);

(3) Two dollars (\$2.00) of the three-dollar fee levied by § 20-7-123(b)(1)(I)(ii); and

(4) Three dollars (\$3.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(J)(i).

(c) The fund shall be used exclusively by the Department of Health for the purchase of computer hardware and software, the conversion cost of scanning data into its computer system, and related activities.

(d) After June 30, 2003:

(1) The fee levied by § 20-7-123(b)(1)(H)(i) shall revert to five dollars (\$5.00);

(2) The fee levied by § 20-7-123(b)(1)(H)(ii) shall cease to be collected;

(3) The fee levied by § 20-7-123(b)(1)(I)(i) shall revert to four dollars (\$4.00);

(4) The fee levied by § 20-7-123(b)(1)(I)(ii) shall revert to one dollar (\$1.00); and

(5) The fee levied by § 20-7-123(b)(1)(J)(i) shall revert to five dollars (\$5.00).

History. Acts 2001, No. 957, § 5; 2003, No. 1723, § 13.

Amendments. The 2003 amendment substituted “After June 30, 2003” for “When one million eight hundred thousand dollars (\$1,800,000) has been depos-

ited into the fund” in the introductory language of (d).

Cross References. Allowable fees prescribed in the Vital Statistics Act, § 20-7-123.

19-6-486. Arkansas Rainy Day Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Rainy Day Fund”.

(b) The fund shall consist of such funds as may be provided by the General Assembly .

(c) The fund shall be used to distribute moneys to one (1) or more funds or fund accounts in the Revenue Stabilization Law of Arkansas, § 19-5-101 et seq.

(d)(1) After determining the estimated amount of general revenue that will be available for allocation to the state agencies under the Revenue Stabilization Law, § 19-5-101 et seq., and after making the determination required by § 19-5-1227(c) and prior to making any transfers deemed necessary by the Chief Fiscal Officer of the State in § 19-5-1227(d), the Chief Fiscal Officer of the State may transfer funds from the Arkansas Rainy Day Fund in the event a “revenue shortfall” exists to meet the state’s financial obligation to provide an adequate educational system for the state and to provide for the effective operation of state government. In the event the Chief Fiscal Officer of the State determines that a “revenue shortfall” exists as defined as a circumstance when the official forecast of gross general revenue certified by the Chief Fiscal Officer of the State is projected to increase less than three percent (3%) over and above the gross general revenue

collections of the previous fiscal year due to changes in economic conditions, he or she may then transfer funds from the Arkansas Rainy Day Fund, as approved by the Legislative Council or Joint Budget Committee, to various funds and fund accounts, as deemed necessary, in the Revenue Stabilization Law for the purpose of meeting unanticipated shortfalls in state general revenue.

(2) Or the Chief Fiscal Officer of the State may transfer funds from the Arkansas Rainy Day Fund to the Economic Development Superprojects Project Fund for projects authorized under Arkansas Constitution, Amendment 82, as approved by the Governor and the Legislative Council or Joint Budget Committee.

(3) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law. Further, the General Assembly has determined that creating the Arkansas Rainy Day Fund and establishing the procedures for the transfer of funds to various fund and fund accounts in the Revenue Stabilization Law or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(e)(1) Upon recommendation by the Chief Fiscal Officer of the State, the Governor may determine that circumstances exist that meet the requirements for the utilization of the Arkansas Rainy Day Fund as set out in this section and the procedures set out herein shall apply.

(2) When the Governor determines there is a need requiring transfer from the Arkansas Rainy Day Fund, he or she shall instruct the Chief Fiscal Officer of the State to prepare and submit written documentation to the Legislative Council or the Joint Budget Committee. Such documentation shall include:

(A) Sufficient financial data that will enable the verification of the existence of an emergency and the amount necessary to address the need for rainy day funds;

(B) A proposed distribution of moneys from the Arkansas Rainy Day Fund to one or more funds or fund accounts in the Revenue Stabilization Law, or to the Economic Development Superprojects Project Fund, or both; and

(C) A statement certifying that no other funds are available that could be transferred in lieu of the funds in the Arkansas Rainy Day Fund.

(3) Such documentation shall be submitted to the Legislative Council or Joint Budget Committee for approval prior to the implementation of the proposed distribution. The Chief Fiscal Officer of the State, after having sought and received prior approval of the Legislative Council or Joint Budget Committee, shall cause the required transfers to be made on his or her books and on the books of the Treasurer of State and the Auditor of State from the Arkansas Rainy Day Fund to the appropriate funds and fund accounts in the Revenue Stabilization Law or to the Economic Development Superprojects Project Fund, or both. In no event shall the amounts transferred in any fiscal year to the funds and fund accounts in the Revenue Stabilization Law by this section cause the general revenues to exceed the maximum allocations authorized in the Revenue Stabilization Law.

(4) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law. Further, the General Assembly has determined that creating the Arkansas Rainy Day Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(f) During each fiscal year, after the provisions of § 19-5-1004(b)(2) are complied with, the Chief Fiscal Officer of the State may replenish the Arkansas Rainy Day Fund by transferring no more than fifty percent (50%) of the balance in the General Revenue Allotment Reserve Fund or an amount equal to all transfers made under this section during the fiscal year immediately preceding the fiscal year in which such replenishment is made under this section, whichever is less, to the Arkansas Rainy Day Fund. In no event shall the balance of the Arkansas Rainy Day Fund exceed one hundred twenty five million dollars (\$125,000,000) at any time.

History. Acts 2002 (1st Ex. Sess.), No. 2, § 1; 2007, No. 1055, §§ 1-4.

Amendments. The 2007 amendment, substituted “may be provided by the Gen-

eral Assembly” for “appropriated by the General Assembly and tobacco proceeds as set out by law” in (b); and added (c), (d), (e), and (f).

19-6-487. Health Adequacy Committee Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Health Adequacy Committee Fund".

(b)(1) All moneys collected under § 20-36-104 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Legislative Health Adequacy Committee for the purposes set out in § 20-36-104.

History. Acts 2003, No. 1816, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Assembly, Family Law, Domestic Peace Act, Legislation, 2003 Arkansas General As- 26 U. Ark. Little Rock L. Rev. 415.

19-6-488. One Percent to Prevent Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "One Percent to Prevent Fund".

(b)(1) The fund shall consist of any other revenues as may be authorized by law.

(2) The fund shall also consist of any federal funds or private foundation grants.

(c) The fund shall be exclusively used by the State Child Abuse and Neglect Prevention Board to prevent the children of prisoners from becoming future prisoners as provided under §§ 9-30-105(c) and 9-30-107(c).

History. Acts 2003, No. 1224, § 3.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of glect Prevention, 26 U. Ark. Little Rock L. Legislation, 2003 Arkansas General As- Rev. 418.
sembly, Family Law, Child Abuse and Ne-

19-6-489. MAGNUM Drug Court Fund.

(a) A drug court judge may order an offender to pay:

(1) Court costs;

(2) Treatment costs;

(3) Drug testing costs;

(4) A program user fee not to exceed twenty dollars (\$20.00) per month; and

(5) Necessary supervision fees, including any applicable residential treatment fees.

(b)(1) A drug court judge shall establish a schedule for the payment of costs and fees.

(2) The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the order of the drug court judge for payment.

(3) User fees shall be set by the drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the drug court program.

(4) Treatment, drug testing, and supervision costs shall be paid to the respective providers.

(5) The court clerk or the designee of the drug court judge shall collect all other costs and fees ordered.

(6)(A) The remaining user fees shall be remitted to the Treasurer of State by the court clerk for deposit in the MAGNUM Drug Court Fund, which is a special revenue fund created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

(B) The MAGNUM Drug Court Fund shall consist of user fees and any other moneys provided by law.

(7) Court orders for costs and fees shall remain an obligation of the offender with court monitoring until fully paid.

History. Acts 2003, No. 1266, § 4.

A.C.R.C. Notes. Acts 2005, No. 2115, § 29, provided: “DRUG COURT RULES AND REGULATIONS. The Department of Human Services — Division of Behavioral Health Services shall develop administrative rules and regulations regarding

the distribution of monies from the MAGNUM Drug Court Fund and shall submit such rules and regulations to the Arkansas Legislative Council or Joint Budget Committee for review.”

Cross References. Court order for costs and fees, § 16-98-304.

19-6-490. Marine Sanitation Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Marine Sanitation Fund”.

(b)(1) The Marine Sanitation Fund shall consist of those special revenues as specified in § 19-6-301(178) and twenty-four percent (24%) of those special revenues as specified in § 19-6-301(20).

(2) The Marine Sanitation Fund shall also consist of any unexpended balances of fees and fines for the use of the Marine Sanitation Program remaining in the Public Health Fund on June 30, 2003.

(3) The Marine Sanitation Fund shall also consist of any other revenues as may be authorized by law.

(c) The Marine Sanitation Fund shall be used by the Department of Health for the purposes set out in § 27-101-401 et seq.

History. Acts 2003, No. 1774, § 16; 2005, No. 20, § 15.

Amendments. The 2005 amendment

rewrote (b)(1), which formerly read: “All monies collected under § 27-101-110 shall be deposited into the State Treasury to the

credit of the Marine Sanitation Fund as special revenues.”

Cross References. Deposit of funds in State Treasury, § 27-101-110.

19-6-491. Domestic Peace Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Domestic Peace Fund”.

(b)(1) The moneys collected under § 16-20-407, as designated under § 16-20-407(b)(2), shall be deposited into the State Treasury to the credit of the fund as special revenue.

(2) The fund shall also consist of any:

(A) Moneys obtained from private grants or other sources that are designated to be credited to the fund; and

(B) Other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Child Abuse/Rape/Domestic Violence Commission as provided under the Domestic Peace Act, § 9-4-101 et seq.

History. Acts 2003, No. 1029, § 2; 2005, No. 20, § 16; 2005, No. 1962, § 86.

Amendments. The 2005 amendment by No. 20, in former (b)(1)(A), substituted “§ 16-20-407” for “§ 16-14-110” and “§ 16-20-407(b)(2)” for “§ 16-14-110(b)(2)”; and deleted former (b)(1)(B).

The 2005 amendment by No. 1962 inserted the present subdivision designa-

tions in (b); in present (b)(1), substituted “§ 16-20-407” for “§ 16-14-110” and “§ 16-20-407(b)(2)” for “§ 16-14-110(b)(2)”; added present (b)(2)(A); and made stylistic and related changes.

Cross References. Additional marriage license fees for the Domestic Peace Fund, § 16-20-407.

19-6-492. [Repealed.]

Publisher’s Notes. This section, concerning the Domestic Peace Fund and moneys collected for additional marriage

license fees, was repealed by Acts 2005, No. 1962, § 87. The section was derived from Acts 2003, No. 1276, § 2.

19-6-493. Public School Facilities Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Public School Facilities Fund”.

(b)(1) All moneys collected under Acts 2003 (2nd Ex. Sess.), No. 70, shall be deposited as follows:

(A) If designated in § 19-6-201 as general revenues, the moneys shall be deposited into the State Treasury to the credit of the fund as special revenues; and

(B) If designated in § 19-6-301 as special revenues, the moneys shall be deposited into the State Treasury as special revenues to be distributed as provided by law.

(2) The distribution of municipal and county taxes collected under the tax amnesty program created by Acts 2003 (2nd Ex. Sess.), No. 70, is not affected by this section.

(3) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used for improvements, construction, or repair of public school facilities.

History. Acts 2003 (2nd Ex. Sess.), No. 70, § 6.

Sess.), No. 70, §§ 1-5 created a temporary state tax penalty and interest amnesty program.

A.C.R.C. Notes. Acts 2003 (2nd Ex.

19-6-494 — 19-6-496. [Repealed.]

Publisher's Notes. These sections, concerning the Alternative Fuels Fund, the Arkansas Weatherization Assistance Fund, and the Choose Life Adoption Assistance Program Fund, were repealed by Acts 2007, No. 407, §§ 13-15 and Acts

2007, No. 873, § 7. The sections were derived from the following sources:

19-6-494. Acts 2005, No. 20, § 17.

19-6-495. Acts 2005, No. 20, § 17.

19-6-496. Acts 2005, No. 20, § 17.

19-6-497. Shared Benefit Payment Fund.

The Shared Benefit Payment Fund shall consist of those special revenues as specified in § 19-6-301(212) and any other revenues authorized by law, there to be used by the state agencies to pay vendors for contracts entered into, as set out in § 19-11-1101.

History. Acts 2005, No. 20, § 17.

19-6-498. Investor Education Fund.

The Investor Education Fund shall consist of those special revenues as specified in § 19-6-301(213) and an initial transfer of one hundred thousand dollars (\$100,000) from the Securities Department Fund, there to be used to inform and educate the public regarding investments in securities and to pay for costs and expenses associated with conducting a stock market game for educational purposes in the state's public school system, as set out in § 23-42-213.

History. Acts 2005, No. 20, § 17.

19-6-499. Fallen Firefighters' Memorial Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Fallen Firefighters' Memorial Fund".

(b)(1) All moneys collected under § 27-15-2702(a)(2) [repealed] shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c)(1) The fund shall be used by the Secretary of State to maintain the Arkansas Fallen Firefighters' Memorial.

(2) All maintenance and costs shall be approved by the Arkansas Fallen Firefighters' Memorial Board and the Capitol Arts and Grounds Commission.

History. Acts 2005, No. 28, § 4.

SUBCHAPTER 5 — TRUST FUND INCOME

SECTION.

19-6-501. Trust fund income.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is nec-

essary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

19-6-501. Trust fund income.

Trust fund income shall consist of any amounts deposited into the State Treasury, with the exception of the proceeds of the sale or redemption of securities. The amounts shall be deposited to the credit of any of the trust funds which are dedicated by law for specific purposes, the sources of which are not derived from general or special revenues. Trust fund income shall include ad valorem taxes collected by the state for the sole benefit of local governmental units.

History. Acts 1973, No. 808, § 9; A.S.A. 1947, § 13-503.8.

SUBCHAPTER 6 — FEDERAL GRANTS, AIDS, AND REIMBURSEMENTS

SECTION.

19-6-601. Federal grants, aids, and reimbursements.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act be-

come effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being nec-

essary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

19-6-601. Federal grants, aids, and reimbursements.

Federal grants, aids, and reimbursements shall consist of all funds granted to this state or any of its agencies under acts of Congress or by any agency of the federal government. Such funds so received shall be considered as revenue of the fiscal year in which they are received. However, those moneys received during the month of July may be classified as revenues of the preceding fiscal year on the books of the Chief Fiscal Officer of the State upon investigation and subsequent determination by the Chief Fiscal Officer of the State that failure to do such would cause undue harm to the state or any of its agencies.

History. Acts 1973, No. 808, § 10; 1979, No. 1027, § 3; A.S.A. 1947, § 13-503.9.

SUBCHAPTER 7 — NONREVENUE RECEIPTS

SECTION.

19-6-701. Nonrevenue receipts.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 230, § 6: Feb. 10, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that due to inflationary pressures in the economy, participation by the various state agencies in the Marketing and Redistribution Program has been minimal, causing income to be below a level that would sustain operation; and in

order for the Marketing and Redistribution Section to operate at a level of maximum efficiency, additional funding is necessary to continue this program and in order to improve the marketing and redistribution of certain inventories classified as miscellaneous or junk, proper accounting and administrative controls must be maintained to insure maximum utilization of the State's assets, then the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after February 10, 1975."

Acts 1975, No. 868, § 17: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State Government. Therefore, an emergency is

hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1977, No. 437, § 4: July 1, 1977. Emergency clause provided: "It being determined by the General Assembly that the proper and effective management of state finances requires that the provisions of this Act be implemented at the commencement of the next biennium and this Act is necessary for the proper management of the financial affairs of the State, therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1991, No. 1023, § 9: Apr. 8, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that this act establishes the Arkansas Medicaid Rebate Trust Fund; that this fund is to consist of monies received by the Department of Human Services in the form of rebates from drug manufacturers; that establishing this rebate program immediately is in the best interests of this state; and that this act should be effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 795, § 6: July 1, 1997. Emergency clause provided: "It is found and determined by the Eighty-First General Assembly that the appropriate reimbursement of travel expenses borne by employees of the State of Arkansas should be provided for and that the provisions of this Act are necessary for proper fiscal administration. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

19-6-701. Nonrevenue receipts.

(a) Nonrevenue receipts shall consist of:

- (1) The repayment of the principal amount of loans;
- (2) The proceeds of the sale and redemption of securities, including premiums received thereon;
- (3) The transfer of funds, by warrants, between funds or fund accounts on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State;
- (4) Federal reimbursement received by state agencies on account of eligible expenditures for specific programs and deposited into funds or fund accounts in the State Treasury classified other than federal;
- (5) Refunds to the state or state agencies, departments, or institutions; and
- (6) Funds collected from drug manufacturers as rebates according to promulgated regulations of Title XIX of the Social Security Act, as amended, and deposited into the Arkansas Medicaid Rebate Program Revolving Fund. These funds shall be transferrable to the Department

of Human Services Medicaid Paying Accounts Account for disbursement in the Arkansas Medicaid Program.

(b) Refunds to expenditures shall consist of:

(1) Proceeds received from insurance policies for casualty losses by state agencies, departments, or institutions;

(2) Proceeds received from vendors on account of overpayment of obligations remitted by state agencies, departments, or institutions;

(3) Refunds to state agencies for cash advances or over allocations made to other state and local agencies for subgrants;

(4) Refunds to state agencies for the erroneous payment or overpayment of salaries to state employees;

(5) Proceeds derived from the maturity or redemption of investments;

(6) Reimbursements to institutions of higher learning for cash fund expenditures for salaries that are properly chargeable to funds in the State Treasury;

(7) Deposits by the counties in the State Aid Road Fund and in the County Supplement Fund Account in the State Treasury for matching funds available in the state aid road construction program;

(8) Reimbursements to state agencies for cost-sharing purposes;

(9) Federal reimbursements of expenses paid in advance by the state on behalf of the federal government; and

(10) Reimbursements by vendors or their agents for warranties, product rebates, and service adjustments.

(c) The first eighteen million dollars (\$18,000,000) received each fiscal year by the State of Arkansas under the State and Local Fiscal Assistance Act of 1972, commonly referred to as the Revenue Sharing Act, shall be transferred by the Treasurer of State to the Federal Revenue Sharing State Highway Trust Fund Account in the State Highway and Transportation Department Fund.

(d) Income derived from the sale of miscellaneous and junk inventories whose ownership is questionable or where excessive administrative accounting is required shall be deposited into the State Treasury as a nonrevenue receipt, there to be credited to the state General Services Fund Account.

History. Acts 1973, No. 808, § 11; 1975, No. 230, § 4; 1975, No. 868, § 13; 1977, No. 437, § 1; 1979, No. 1027, §§ 4, 5; A.S.A. 1947, §§ 13-503.10, 13-503.10a; Acts 1991, No. 1023, § 5; 1997, No. 795, § 2; 2007, No. 716, § 1.

Amendments. The 2007 amendment added (b)(9) and (10) and made related changes.

U.S. Code. The State and Local Fiscal Assistance Act of 1972, referred to in this section, is codified as 31 U.S.C. § 6701 et seq.

Title XIX of the Social Security Act, referred to in this section, is codified as 42 U.S.C. § 1396 et seq.

SUBCHAPTER 8 — SPECIAL REVENUE FUNDS CONTINUED

SECTION.

- 19-6-801. Commercial Bait and Ornamental Fish Fund.
- 19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund.
- 19-6-803. Public Legal Aid Fund.
- 19-6-804. Spyware Monitoring Fund.
- 19-6-805. Arkansas Rx Program Fund.
- 19-6-806. Abandoned and Orphan Well Plugging Fund.

SECTION.

- 19-6-807. In God We Trust License Plate Fund.
- 19-6-808. Arkansas Research Infrastructure Fund.
- 19-6-809. Arkansas Alternative Fuels Development Fund.
- 19-6-810. Choose Life Adoption Assistance Program Fund.

Effective Dates. Acts 2007, No. 407, § 18; July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and

other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

19-6-801. Commercial Bait and Ornamental Fish Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Commercial Bait and Ornamental Fish Fund”.

(b) The fund is to be used by the State Plant Board to administer the Commercial Bait and Ornamental Fish Act, § 2-5-201 et seq.

History. Acts 2005, No. 1449, § 2.

19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Arkansas Citizens First Responder Safety Enhancement Fund”.

(b) The fund is to be used as appropriated by the General Assembly as follows:

(1) Fifty percent (50%) of the fund shall be used for emergency medical services; and

(2) Fifty percent (50%) of the fund shall be used for local law enforcement.

History. Acts 2005, No. 2246, § 2.

19-6-803. Public Legal Aid Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Public Legal Aid Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used for providing financial support for public legal aid organizations and distributed as follows:

(1) Forty-five percent (45%) of the fund shall be paid to Legal Aid of Arkansas; and

(2) Fifty-five percent (55%) of the fund shall be paid to the Center for Arkansas Legal Services.

History. Acts 2005, No. 1893, § 2.

19-6-804. Spyware Monitoring Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Spyware Monitoring Fund”.

(b) The fund shall consist of those special revenues as specified in § 19-6-301(228) and any other revenues as may be authorized by law;

(c) The fund is to be used by the Attorney General to offset his or her salary and administrative expenses directly related to the enforcement of the Consumer Protection Against Computer Spyware Act, § 4-111-101 et seq., and administration of the website required by the Consumer Protection Against Computer Spyware Act, § 4-111-101 et seq.

History. Acts 2005, No. 2255, § 2; 2007, No. 407, § 16.

Cross References. Use of Spyware Monitoring Fund, § 4-111-105.

Amendments. The 2007 amendment added (b) and redesignated former (b) as present (c).

19-6-805. Arkansas Rx Program Fund.

The Arkansas Rx Program Fund shall consist of that portion of those special revenues as specified in § 19-6-301(201), Arkansas Rx Program fees, rebates and penalties as set out in § 20-76-504, and any other revenues as may be authorized by law, there to be used by the Department of Human Services to reimburse retail pharmacies for rebates, contracted services including pharmacy processing fees, administrative and associated computer costs, and other reasonable program costs, as set out in § 20-76-501 et seq.

History. Acts 2007, No. 407, § 17.

19-6-806. Abandoned and Orphan Well Plugging Fund.

The Abandoned and Orphan Well Plugging Fund shall consist of those special revenues as specified in § 19-6-301(230), grants, gifts, and any other revenues as may be authorized by law, there to be used by the Oil and Gas Commission to provide security in the event an oil and/or gas well operator fails to perform plugging responsibilities under § 15-72-217 or fails to correct well conditions that create an imminent danger to the health or safety of the public, or threaten significant environmental harm or damage to property.

History. Acts 2007, No. 407, § 17.

19-6-807. In God We Trust License Plate Fund.

The In God We Trust License Plate Fund shall consist of those special revenues as specified in § 19-6-301(223) and any other revenues as may be authorized by law, there to be used by the Division of Aging and Adult Services of the Department of Human Services to provide quarterly cash grants to each senior citizen center in a similar method as is used in the state's current system for distributing United States Department of Agriculture money to the senior citizen centers to purchase raw food, and for purchasing food for use in a home-delivered meal program, as set out in § 27-15-4904.

History. Acts 2007, No. 407, § 17.

19-6-808. Arkansas Research Infrastructure Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Research Infrastructure Fund".

(b) The fund shall consist of:

- (1) All moneys appropriated to it by the General Assembly; and
- (2) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the Arkansas Science and Technology Authority for the purposes delineated under the Arkansas Research Alliance Act, § 15-3-301 et seq.

History. Acts 2007, No. 563, § 2.

19-6-809. Arkansas Alternative Fuels Development Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Alternative Fuels Development Fund".

(b)(1) All moneys appropriated for the Arkansas Alternative Fuels Development Fund shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Agriculture Department to provide grants to support alternative fuels producers, feedstock processors, and alternative fuels distributors in Arkansas as provided under the Arkansas Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise provided by law.

History. Acts 2007, No. 873, § 2.

19-6-810. Choose Life Adoption Assistance Program Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Choose Life Adoption Assistance Program Fund”.

(b)(1) The fund shall consist of revenue balances previously collected from Choose Life license plate design-use contribution fees under § 27-15-3903(b)(2) [Repealed] and § 27-15-3904 [Repealed].

(2) The Director of the Department of Health shall distribute the funds to Arkansas Right to Life.

History. Acts 2007, No. 1032, § 33;
2007, No. 1201, § 33.

CHAPTER 7
FEDERAL FUNDS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. OFFICE OF STATE-FEDERAL RELATIONS.
- 3. STATE ECONOMIC OPPORTUNITY OFFICE. [REPEALED.]
- 4. RECEIPT OF FEDERAL FUNDS GENERALLY.
- 5. MISCELLANEOUS FEDERAL GRANT ACT.
- 6. GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS.
- 7. TITLE XX SOCIAL SECURITY FUNDS.
- 8. SALE OR LEASE OF MINERALS, OIL, AND GAS.
- 9. RESETTLEMENT OR RURAL REHABILITATION PROJECTS.
- 10. EDUCATIONAL FUNDING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-7-101. Reports to Legislative Council.
- 19-7-102. Legislative review of federal programs.

SECTION.

- 19-7-103. Control of college study programs and basic educational grants.

Preambles. Acts 1971, No. 191 contained a preamble which read: "Whereas, it has been the practice of the various Governors of the State of Arkansas during the interim between legislative sessions to enter into agreements with the federal government to obtain for the people of Arkansas the benefits of various federal programs enacted or implemented in the interim between legislative sessions; and

"Whereas, many of these programs obligate the State of Arkansas for present or future financial commitments which have not been authorized by the General Assembly and the funding of which has not been specifically authorized by legislative appropriation, and often new departments, boards or commissions are established by administrative order of the Governor to administer such programs; and

"Whereas, the Sixty-Eighth General Assembly of the State of Arkansas passed Senate Bill 21 which would have required the Governor of the State to file copies of all contracts or agreements entered into with the federal government for participating in federally financed programs with each member of the General Assembly at thirty (30) day intervals, but said bill was vetoed by the Governor on the basis of imposing additional financial costs and on the basis that the same would jeopardize federal programs; and

"Whereas, it is the consensus of the General Assembly that the Constitutional duty and obligation of the General Assem-

bly to appropriate funds and to levy taxes for the support of government makes it essential that the General Assembly be kept informed on the nature of federal aid programs, and the extent to which State funds are being obligated in connection with such programs, now, therefore ... "

Acts 1979, No. 34 contained a preamble which read: "Whereas, the Legislative Joint Auditing Committee reviewed the financial audit of Arkansas Plan, Inc., a nonprofit corporation; and

"Whereas, Arkansas Plan, Inc., was and has been used as a disbursing agent for federal funds that were received by Arkansas governmental entities; and

"Whereas, the expenditures of these Federal-State funds were being commingled and it appears that there is no valid reason for the accounting to be done by a nonprofit corporation,

"Now, therefore ... "

Effective Dates. Acts 1979, No. 34, § 7: Feb. 1, 1979. Emergency clause provided: "It is hereby found and determined by the 72nd General Assembly that the various State colleges, universities and vocational technical schools shall immediately implement new procedures provided herein and that such compliance by all interested parties will accrue to the benefit of the taxpayers of the State of Arkansas; therefore, an emergency is hereby declared to exist and it is necessary for the public peace, health, and safety that this act be effective from and after the date of its passage and approval."

19-7-101. Reports to Legislative Council.

(a) The Director of the Department of Finance and Administration shall file quarterly reports with the Legislative Council itemizing and summarizing all contracts or agreements entered into by the Governor with the federal government, or any agencies or instrumentalities thereof, whereby the State of Arkansas is to participate in any program involving the expenditure of federal funds, whether or not state funds are obligated in connection therewith, with respect to new federal programs, or expansion of existing federal programs which were not in existence or which were not implemented by state participation, at the time of the adjournment of the regular session of the General Assembly and entered into prior to the convening of the next regular session of the General Assembly.

(b) The report shall list, with respect to each such contract or agreement:

- (1) A brief statement of the purposes of the agreement;
- (2) The amount of federal funds to be expended thereunder;
- (3) The amount of any state matching funds required in connection with the program, if any;
- (4) The name of the agency or department that will administer the program; and
- (5) Such additional information as will enable the members of the Legislative Council to determine the nature and purposes of the agreement.

History. Acts 1971, No. 191, § 1; A.S.A. 1947, § 13-733.

19-7-102. Legislative review of federal programs.

(a) The Legislative Council shall review the quarterly reports filed by the Director of the Department of Finance and Administration as required in § 19-7-101 and shall submit its findings and recommendations to each succeeding regular session of the General Assembly for enabling legislation to implement, restrict, or prohibit the state's participation in any such new federal program or expanded federal program which was implemented by contract or agreement entered into by the Governor subsequent to the adjournment of the preceding session of the General Assembly.

(b)(1) In the event the next regular session of the General Assembly shall fail to prohibit or restrict the state's participation in any such new or expanded program implemented by contract or agreement signed by the Governor with the federal government during the interim between the immediately preceding regular session of the General Assembly, then the state may continue to participate in that federal program.

(2) On the other hand, if the General Assembly shall restrict or prohibit the state's participation in any such new or expanded federal program implemented by contract or agreement subsequent to the last regular session, it shall be unlawful for the state to continue to participate in, or to expend any state funds in connection with, any such program. All contracts or agreements entered into by the Governor or any department or agency of the state acting under authority of the Governor shall be void, and the state's participation therein shall cease upon the adjournment of the General Assembly or at such later date if a later date for the termination of the state's participation therein has been prescribed by law.

History. Acts 1971, No. 191, § 2; A.S.A. 1947, § 13-734.

19-7-103. Control of college study programs and basic educational grants.

(a) All state agencies, departments, and institutions receiving public funds are charged with the responsibility of the handling, receipt, and disbursement of these funds within their normal framework as provided by the laws of the State of Arkansas. The control of these funds arising from the federal programs of college work-study programs and basic educational opportunity grants received by the named governmental entities within this subchapter shall be within the daily control of the various administrators of the agencies.

(b) The Department of Education shall issue rules and regulations for the purpose of administering the funds received for college work-study programs and basic educational opportunity grants for the vocational-technical schools. The Department of Higher Education shall issue rules and regulations for the purpose of administering the funds received by state colleges and universities. The administration guidelines for the control of the funds of these two (2) programs shall be treated within the fiscal management laws of the State of Arkansas. Before these rules and regulations are implemented, the approval of the Legislative Council and the Legislative Joint Auditing Committee must be obtained by a majority vote of both named bodies.

(c) Any and all agreements made by state agencies with Arkansas Plan, Inc., are declared to be against public policy of the State of Arkansas, with such agreements being null and void.

(d) Any public servant who does not comply with the provisions of this section commits a Class A misdemeanor. This offense is classified as noncompliance with this section.

History. Acts 1979, No. 34, §§ 1-4; Higher Education, administration of federal funds, § 6-61-401.
A.S.A. 1947, §§ 17-735—17-738.

Cross References. State Board of

SUBCHAPTER 2 — OFFICE OF STATE-FEDERAL RELATIONS

SECTION.
19-7-201. Purpose.
19-7-202. Creation.

SECTION.
19-7-203. Duties.
19-7-204. Fund.

Preambles. Acts 1979, No. 66 contained a preamble which read: “Whereas, the General Assembly realizes the daily impact of the full spectrum of federal governmental actions on the health, welfare and prosperity of the State and on the ability of state agencies to fully meet the needs of the citizens of Arkansas; and

“Whereas, the General Assembly recognizes the existence and importance of the many non-governmental, national fund-

ing sources, programs, and other such activities to further and expand the well-being of the State;

“Now therefore, the General Assembly of the State of Arkansas recognizes the need to establish in Washington, D.C., an office devoted to establish the means to achieve these ends”

Effective Dates. Acts 1979, No. 66, § 7: Feb 7, 1979. Emergency clause provided: “It is hereby found and determined

by the General Assembly that there is an immediate need for an Office of the State-Federal Relations in Washington, D.C., for the immediate betterment of the State of Arkansas through obtaining federal governmental and private grants and other funds and forms of assistance to protect the health, welfare, and prosperity of the citizens of Arkansas; that the immediate

passage of this Act is necessary in order that this Office be created on or before February 15, 1979. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, safety, and welfare, shall be in full force and effect from and after its passage and approval."

19-7-201. Purpose.

It is the intent of this subchapter to establish mechanisms through which the legislative and executive branches of state government can work together with Arkansas' congressional delegation to strengthen and support the state's relationship with the federal government and to ensure that the state receives all benefits and aid to which it is entitled.

History. Acts 1979, No. 66, § 4; A.S.A. 1947, § 13-742.

19-7-202. Creation.

(a) There is created within the Governor's Office an Office of State-Federal Relations for the State of Arkansas, to be located in Washington, D.C.

(b) The executive head of the office shall be the Director of the Office of State-Federal Relations. The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(c) All budgeting, purchasing, and related management functions shall be performed under the direction and supervision of the director. The director may delegate his or her functions, powers, and duties to personnel within the office as the director shall deem desirable and necessary for the effective and efficient operation of the office.

History. Acts 1979, No. 66, § 1; A.S.A. 1947, § 13-739.

19-7-203. Duties.

The duties of the Office of State-Federal Relations shall include, but not be limited to, the following:

(1) **FEDERAL GRANTS:**

(A) Monitor opportunities for discretionary grants;

(B) Identify and comment upon proposed changes in funding formulas; and

(C) Keep the Governor's Office and state agencies informed on the availability of grants;

(2) **FEDERAL REGULATIONS:**

(A) Monitor regulatory developments affecting state government;
 (B) Support existing and proposed legislation and regulations favoring the interests of the state; and

(C) Support the public policy of this state as expressed by the Governor's Office, the General Assembly, and agencies, as appropriate;

(3) **FEDERAL LEGISLATION:**

(A) Keep the Governor's Office, agencies, and the General Assembly informed about proposed legislative developments of critical significance to state government; and

(B) Support Arkansas' congressional delegation in efforts to influence federal governmental decisions and policies as they apply to Arkansas;

(4) **INTERSTATE COOPERATION:** Facilitate cooperation with other states on issues of mutual concern;

(5) **INFORMATION CLEARINGHOUSE:** Coordinate the flow of information between state and federal governments;

(6) **REPORTING:** Provide regular performance reports to the Governor, the Legislative Council, and the General Assembly to enable evaluation of the effectiveness of the Washington office; and

(7) **NONGOVERNMENTAL FUNDING SOURCES, PROGRAMS, ETC:**

(A) Discover information on all available additional funding and other resources and direct it to the appropriate state agency or person within the state; and

(B) Take advantage of all resources available on a nationwide basis that can be beneficial to the state and its citizens.

History. Acts 1979, No. 66, § 3; A.S.A. 1947, § 13-741.

19-7-204. Fund.

There is created within the Governor's Office the Office of State-Federal Relations Fund.

History. Acts 1979, No. 66, § 2; A.S.A. 1947, § 13-740.

SUBCHAPTER 3 — STATE ECONOMIC OPPORTUNITY OFFICE**SECTION.**

19-7-301, 19-7-302. [Repealed.]

19-7-301, 19-7-302. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1995, No. 1296, § 74. This subchapter was derived from the following sources:

19-7-301. Acts 1969, No. 347, §§ 1, 2; A.S.A. 1947, §§ 13-730, 13-731.

19-7-302. Acts 1969, No. 347, § 1; A.S.A. 1947, § 13-730.

SUBCHAPTER 4 — RECEIPT OF FEDERAL FUNDS GENERALLY

SECTION.

- 19-7-401. Sale of public lands generally.
 19-7-402. Sale of public domain lands and leases.
 19-7-403. Lease of lands for flood control purposes.
 19-7-404. Revenues derived from forest reserves.

SECTION.

- 19-7-405. Geological and Conservation Federal Fund.
 19-7-406. Loans on agricultural products.
 19-7-407. [Repealed.]
 19-7-408. [Repealed.]
 19-7-409. Proceeds from sale of lumber on military bases.

Preambles. Acts 1911, No. 423 contained a preamble which read: "Whereas, It is provided by act of Congress, Vol. No. 35, part 1, page 260, that twenty-five per cent of all revenue received from the Forest Reserves shall be paid into the State Treasury at the close of each fiscal year, beginning with the year which closed June 30, 1908, and that such money shall be apportioned to each county from which it was received for the benefit of the public schools and the public roads of such county or counties in such manner as may be determined by enactment of the General Assembly.

"Whereas, The Federal Government is paying this money into the State Treasury in considerable sums, now amounting to each \$5,000.00, and this revenue will continue and greatly increase; and,

"Whereas, This money will lay in the State Treasury without benefit to the public schools or the public roads for the next two years, unless action is taken by the present General Assembly; therefore ... "

Effective Dates. Acts 1911, No. 423, § 5: May 31, 1911. Emergency declared.

Acts 1913, No. 299, § 2: approved Mar. 29, 1913. Emergency declared.

Acts 1945, No. 21, § 3: Feb. 6, 1945. Emergency clause provided: "Whereas the funds for 1942 and 1943 received from the leasing of lands for flood control have been held in the State Treasury for many months awaiting authority for distribution; and

"Whereas the 1944 funds will be received shortly; and

"Whereas the school districts affected are in urgent need of funds, it is necessary for the preservation of public health, peace and safety that this act shall take effect at once.

"Therefore an emergency is hereby declared to exist and this act shall be in full

force and effect immediately upon its passage and approval."

Acts 1947, No. 92, § 1: approved Feb. 18, 1947. Emergency clause provided: "It is found that this Act is necessary for the preservation of the peace, health, and safety of the people, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from, and after, its passage."

Acts 1949, No. 277, § 2: approved Mar. 10, 1949. Emergency clause provided: "It is found that this act is necessary for the preservation of the peace, health and safety of the people, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage."

Acts 1961 (1st Ex. Sess.), No. 23, § 8: Sept. 8, 1961. Emergency clause provided: "It has been found and determined by the General Assembly that the Federal Government has recently enacted legislation to match State Funds 2 to 1 for preparing plans and specifications of area redevelopment programs; that the Planning Division of Arkansas Geological and Conservation Commission shall prepare such plans and specifications; that before any political subdivision of the State may qualify for Federal funds to be made available to said political subdivision of the State, detailed plans and specifications must be prepared for each local project; that implementation of such programs should commence at its earliest date to further the industrialization of Arkansas; and that the immediate passage of this act is necessary to provide funds for the Planning Division for the Arkansas Geological and Conservation Commission. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall take

effect and be in full force from and after its passage and approval.”

Acts 1987 (1st Ex. Sess.), No. 43, § 2: June 19, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State Treasurer is currently holding federal funds from the sale of timber on military lands which, by federal law, can be distributed for the benefit of public schools and

public roads, only if the General Assembly prescribes a formula for distribution. Therefore, an emergency is declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1078, § 92: effective July 1, 2000.

19-7-401. Sale of public lands generally.

The Treasurer of State is authorized and required, from time to time, to draw for and receive, from the Secretary of the Treasury of the United States, all sums of money which may accrue to the state on account of the five percent (5%) of the net proceeds of the sale of public lands of the United States lying within the State of Arkansas.

History. Acts 1836, § 1, p. 206; C. & M. Dig., § 4493; Pope’s Dig., § 5529; A.S.A. 1947, § 13-701.

19-7-402. Sale of public domain lands and leases.

(a) Funds received by the Treasurer of State from the federal government on account of the sale of public domain lands from any funds coming to the Treasurer of State from the federal Taylor Grazing Act shall be distributed to the respective counties in which the property is situated.

(b)(1) Eighty percent (80%) of the funds of each county shall be distributed to the school districts of the county in ratio to the leased territory or public domain sold within the district.

(2) The remaining twenty percent (20%) of the funds for each county shall be credited to the county road fund.

(c) The county treasurer shall make distribution of the school districts’ portion on an acreage basis or other equitable basis if the data required for making a distribution of funds as provided in this section is not available at the time funds are available for distribution.

(d)(1) It shall be the duty of the Department of Education to distribute that portion of the funds accruing to the schools to the respective counties and the duty of the Auditor of State to distribute the funds accruing to the county road funds.

(2)(A) It shall be the duty of the county quorum court to provide the county treasurer with a statement showing the distribution of the funds in accordance with law.

(B) Thereafter, the county treasurer shall credit the respective school districts with the amounts indicated.

History. Acts 1999, No. 1078, § 86; 2005, No. 433, § 3.

Amendments. The 2005 amendment substituted “treasurer” for “quorum court” in (c).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

U.S. Code. The federal Taylor Grazing Act, referred to in this section, is codified as 43 U.S.C. § 315 et seq.

19-7-403. Lease of lands for flood control purposes.

All funds received by the Treasurer of State from the federal government on account of the lease of lands acquired by the federal government for flood control purposes, and distributed by the Treasurer of State to the respective counties, shall be distributed by each county receiving them as follows:

(1) Eighty percent (80%) of such funds received by each county shall be distributed to the school districts in the county, with each school district to receive the portion thereof that the flood control acreage in that district bears to the total flood control acreage in all districts in the county; and

(2) Twenty percent (20%) of such funds received by each county shall be credited to the county road fund.

History. Acts 1983, No. 680, § 1; A.S.A. 1947, § 13-706.4.

19-7-404. Revenues derived from forest reserves.

(a) All money paid into the State Treasury by the federal government from the revenue derived from the forest reserves within this state for the benefit of public schools and public roads, as provided by congressional act, to the amount of fifty thousand dollars (\$50,000) or as much thereof as may be so paid in, shall be appropriated as follows:

(1) Three-fourths ($\frac{3}{4}$) of the money received by the State Treasury from the federal government from the revenues derived from the forest reserves within this state shall be apportioned to the public schools as provided in § 6-20-218 and Acts 1933, No. 104, § 2 [obsolete]; and

(2) The remaining one-fourth ($\frac{1}{4}$) shall be apportioned to the public roads of the respective counties from which the money was derived.

(b) The Auditor of State, on the first Monday in September of each year, shall draw his or her warrant on the State Treasury in favor of the county treasurer in each county which has any funds from the forest reserve revenue for the remaining one-fourth ($\frac{1}{4}$) of the money. The county treasurers shall add it to the funds of their respective counties for the improvement of the public roads. The Auditor of State’s warrant shall be drawn upon a certified copy of an order of the county court, directing the county treasurer to draw the funds.

History. Acts 1911, No. 423, §§ 1, 2, 4; 1913, No. 299, § 1; C. & M. Dig., §§ 5497, 5498, 8995; Pope’s Dig., §§ 7139, 7140;

A.S.A. 1947, §§ 13-702, 13-703, 13-705; Acts 2001, No. 1553, § 30.

Publisher’s Notes. The congressional

act referred to in this section is the Act of May 23, 1908, c. 192, 35 Stat. at Large, 260, codified as 16 U.S.C. § 500.

Cross References. Distribution of national forest funds to schools, § 6-20-218.

19-7-405. Geological and Conservation Federal Fund.

There is created and established in the Treasurer of State's office a fund to be known as the Geological and Conservation Federal Fund. Federal funds as may be allotted to the Planning Division of the Arkansas Geological Survey are to be deposited into the fund.

History. Acts 1961 (1st Ex. Sess.), No. 23, § 6; A.S.A. 1947, § 13-729.

19-7-406. Loans on agricultural products.

It shall be lawful for the Department of Correction and other state institutions and the counties of the state which produce cotton or other agricultural products to participate in government loans made available upon these agricultural products. The superintendent of any such state institution and the county judge of any such county are authorized to enter into the necessary papers to secure the benefits of these government loans.

History. Acts 1949, No. 332, § 1; A.S.A. 1947, § 13-727.

19-7-407. [Repealed.]

Publisher's Notes. This section, concerning building or repairing of highways, was repealed by Acts 1987, No. 792, § 6.

The section was derived from Acts 1949, No. 361, § 1; A.S.A. 1947, § 13-708.

19-7-408. [Repealed.]

Publisher's Notes. This section, concerning funds credited to the Public Institutions Fund, was repealed by Acts 1995,

No. 1296, § 75. The section was derived from Acts 1949, No. 259, § 1; A.S.A. 1947, § 13-728.

19-7-409. Proceeds from sale of lumber on military bases.

(a) All moneys received by the Treasurer of State from the United States Government from the sale of lumber and timber products on United States military installations shall be distributed to the respective counties in which the property is situated.

(b)(1) Seventy-five percent (75%) of the moneys for each county shall be distributed to the respective school districts of the county in the same proportion that the lumber and timber products sold within that school district have to the total of lumber and timber products sold in the county.

(2) The remaining twenty-five percent (25%) of the moneys for each county shall be credited to the county road fund.

(3) The county treasurer shall make distribution of the school districts’ portions on an equitable basis if the data required for making distribution of funds as provided in this section is not available at the time funds are available for distribution.

History. Acts 1999, No. 1078, § 87; 2005, No. 433, § 4. **Effective Dates.** Acts 1999, No. 1078, § 92: July 1, 2000.

Amendments. The 2005 amendment substituted “treasurer” for “quorum court” in (b)(3).

SUBCHAPTER 5 — MISCELLANEOUS FEDERAL GRANT ACT

SECTION.	SECTION.
19-7-501. Title.	19-7-503. Additional procedures and limitations.
19-7-502. Procedure upon availability of unanticipated federal funds.	19-7-504. Recommendation by Governor — Failure to appropriate.

Cross References. Applicability of Higher Education Expenditure Restriction Act, § 6-63-302.

Effective Dates. Acts 2001, No. 1646, § 34: Apr. 16, 2001. The emergency clause provided: “It is hereby found and determined by the General Assembly that changes in the state’s fiscal laws must take effect at the beginning of the fiscal year and that if the current legislative session is extended such that the 90 day period is later than July 1, 2001 such changes will not be timely. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

19-7-501. Title.

This subchapter shall be cited and referred to as the “Miscellaneous Federal Grant Act”.

History. Acts 1983, No. 346, § 1; A.S.A. 1947, § 13-754.

19-7-502. Procedure upon availability of unanticipated federal funds.

(a) If new or additional federal funds, new or additional Comprehensive Employment and Training Act, or its successor’s, funds, or changes in state use of appropriations for programs combined into block grants from the federal government become necessary, or if new federal programs or new Comprehensive Employment and Training Act, or its successor’s, programs are initiated that are not authorized or contemplated in the biennial operations appropriation act for the benefiting state agency and such changes make it necessary that the benefiting state agency employ additional personnel or require additional appro-

priations to expend these funds in order to carry out the objectives of the federal programs or to meet federal requirements, then the head of the affected state agency is authorized to request the approval of the Governor and the Chief Fiscal Officer of the State, as provided in this section, for additional appropriations of one (1) or more new or additional salaried positions to be utilized by that respective agency. The salary rates for these positions are not to exceed the highest maximum annual salary rate or the highest grade level position authorized in the salary schedule of the requesting agency's biennial appropriation act for operations, as governed by the Uniform Classification and Compensation Act of 1969, § 21-5-201 et seq., or its successor.

(b) In the case of those agencies, departments, or institutions, that are specifically exempt from the provisions of the compensation act, such new or additional employees shall be established at salary rates not to exceed the maximum established in the salary schedule of the biennial operations appropriation act for the respective agency for comparable positions. In no event shall the additional positions exceed the maximum number of positions authorized for the agency in the biennial appropriation act for operations.

(c) Whenever the head of a state agency deems it necessary to establish such new or additional appropriations or positions as authorized in this section, he or she shall file with the Governor a written report accompanied by necessary supporting documents. These documents shall set forth the facts, justifications, and circumstances that necessitate such appropriations, the maximum number of positions sought, the titles thereof, and the maximum annual salary rate to be paid each position, a complete line item operations budget for the program, a statement of the expected duration into future years of the federal funds, and whether or not the program is anticipated to eventually be supported either in part or in whole by state revenues.

(d) Upon receipt of the report and supporting documents, for unanticipated miscellaneous federal grants, excluding the Comprehensive Employment and Training Act or its successor, the Governor or the Governor's designee shall study it. If he or she shall determine that the new or additional positions or appropriations are being sought in strict compliance with this subchapter, the Governor, after seeking the advice of the Legislative Council or the Joint Budget Committee, may approve or modify the request for such additional or new positions or appropriations as, in his or her judgment, he or she deems necessary. He or she shall forward a copy thereof to the head of the requesting agency and the Chief Fiscal Officer of the State. Upon receipt thereof, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section and the applicable classifications of appropriations as enumerated in §§ 19-4-520 — 19-4-525 as amended, or its successor, and in accordance with any federal limitations as may be applicable to the funds which are available.

History. Acts 1983, No. 346, § 2; A.S.A. 1947, § 13-755. employment and Training Act (CETA), referred to in this section, was repealed by
U.S. Code. The Comprehensive Em- Public Law 97-300.

19-7-503. Additional procedures and limitations.

In addition to the limitations and procedures established in § 19-7-502, the following additional procedures and limitations shall be held in strict compliance:

(1) All new or additional federal or Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, funds expended by the benefiting agency under the authority of any appropriation provided by the General Assembly for such purposes and transferred through the provisions and procedures established in this section shall be deposited into, and expended from, the State Treasury;

(2) Appropriations authorized by the General Assembly for such purpose and transferred pursuant to the procedures set out in this section shall be strictly used for the expenditure of the Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, grant-in-aid moneys or other federal grant-in-aid moneys received, reimbursements from the federal government, and local or private funds designated as matching funds for these federal projects. These amounts are to be deposited into the State Treasury for the benefit of the State of Arkansas, or any of its agencies, for use in emergency relief needs or for the operation of any Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, programs or any other programs approved by the federal government for which no appropriations or insufficient appropriations were provided elsewhere for such purposes;

(3) Additional positions authorized under § 19-7-502 must be paid from the Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, funds deposited into the State Treasury for that specific Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, program as may be authorized through the provisions of this subchapter or from federal, local, or private funds deposited into the State Treasury for that specific federal program as may be authorized through the provisions of this subchapter. However, general, special, trust, or miscellaneous state funds may not be used for the purpose of paying salaries of the positions so authorized;

(4) The Chief Fiscal Officer of the State is authorized to promulgate such rules, regulations, procedures, and guidelines as he or she may deem necessary and proper in order to carry out the provisions of this subchapter;

(5) The provisions of §§ 19-4-1807 and 19-4-1901, or their successors, which establish the federal grants, aid, and reimbursements procedures and federal funds procedures of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., shall be strictly complied with;

(6) Unless provided elsewhere, all federal funds received by state agencies, departments, boards, and commissions benefiting from the

establishment of the biennial operations appropriation acts authorized by the General Assembly for new federal or Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, programs shall be deposited into the State Treasury, except when such deposit is expressly prohibited, in writing, as a condition for approval of the grant or reimbursement by the federal grant or agency; and

(7) No appropriation as authorized by the General Assembly for new federal or Arkansas Workforce Investment Act, § 15-4-2201 et seq., or its successor's, programs which the Chief Fiscal Officer of the State transfers or causes to be transferred to the various agencies may be utilized for entering into or making payments for personal service contracts.

History. Acts 1983, No. 346, § 3; A.S.A. 1947, § 13-756; Acts 2001, No. 1646, § 18.

U.S. Code. The Comprehensive Em-

ployment and Training Act (CETA), referred to in this section, was repealed by Public Law 97-300.

19-7-504. Recommendation by Governor — Failure to appropriate.

(a) Upon the convening of each regular session of the General Assembly, the Governor shall submit to the General Assembly and shall recommend to the General Assembly the appropriation of the necessary federal or state matching funds, or both, estimated to be necessary with respect to any program during the subsequent fiscal biennium.

(b) If the General Assembly shall fail to appropriate funds for any program entered into with the federal government as authorized by the laws of the State of Arkansas, on June 30 following adjournment of the regular session of the General Assembly, the program shall cease to exist, and the State of Arkansas shall no longer participate in the program.

History. Acts 1983, No. 346, § 4; A.S.A. 1947, § 13-757.

SUBCHAPTER 6 — GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS

SECTION.

- 19-7-601. Legislative determination.
- 19-7-602. Definitions.
- 19-7-603. Administration.
- 19-7-604. Federal grants, aids, and reimbursement procedures.
- 19-7-605. Indirect cost reimbursements.
- 19-7-606. Transfer of reimbursements.

SECTION.

- 19-7-607. Expenditure of federal funds.
- 19-7-608. Information exchange programs.
- 19-7-609. Revenue sharing.
- 19-7-610. Advice of legislative departments.

Cross References. Federal grants and aids, § 19-4-1901 et seq.

Effective Dates. Acts 1983, No. 498,

§ 12: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly,

that the administration of grant, aid and reimbursement programs by the federal government has a significant impact on the people and government of the State of Arkansas, and that a review procedure for such programs is desirable for the efficient operation of State government. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 513, § 3: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that federal OMB Circular A-87, and other federal laws authorize State agencies who receive federal funds to seek reimbursement for indirect costs incurred in the administration of such federal funds, and that it is essential that the State agencies of this State which elect to receive such cost reimbursement be authorized to qualify for the payment, yet such agency should not be obligated to obtain the same if the administrative head of said agency determines it would be in the better interest of the agency not to seek indirect cost reimbursement; and that the immediate passage of this Act is

necessary to clarify the existing laws of this State to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (1st Ex. Sess.), No. 44, § 18: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

19-7-601. Legislative determination.

It is found and determined by the General Assembly that all governmental units, various nongovernmental organizations, and the general public in the State of Arkansas should have the opportunity to review and comment upon applications for federal funding assistance. The General Assembly further finds that it is desirable that the State of Arkansas pursue the utilization of indirect cost reimbursements available to state agencies from the various federal agencies. It is further found that the state should cooperate with the federal government in the development and utilization of intergovernmental information exchange programs which may be of benefit to the State of Arkansas and to utilize any available federal assistance funds for the furtherance of the purposes of this subchapter.

History. Acts 1983, No. 498, § 1; A.S.A. 1947, § 13-758.

19-7-602. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Office of Intergovernmental Services" means an organizational unit within the Department of Finance and Administration;

(2) "Executive Order 12372, Intergovernmental Review of Federal Programs" means an instrument signed and placed into effect by the President of the United States on July 14, 1982;

(3) "Federal funding assistance" means financial aid available from the various federal government agencies to units of state and local governments, as well as to private for-profit and private nonprofit organizations;

(4) "Review and comment" means the process by which any unit of government, organization, or individual may request to review and provide comments upon any application for federal funding assistance, as limited by other sections of this subchapter;

(5) "State clearinghouse" means that section of the Office of Intergovernmental Services which is designated as the governmental unit responsible for coordinating the review of applications for federal funding assistance, pursuant to Executive Order 12372 and other provisions of this subchapter;

(6) "Indirect cost reimbursements" means the reimbursement by a federal agency to agencies of state government for the costs incurred which are necessary for the efficient conduct of a federal grant or contract, as stated in Office of Management and Budget Circular A-87, "A Guide for State and Local Government Agencies — Cost Principles and Procedures for Establishing Cost Allocations Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government"; and

(7) "Revenue sharing" means payments to units of local government as authorized by the State and Local Fiscal Assistance Act of 1972, as amended.

History. Acts 1983, No. 498, § 2; A.S.A. 1947, § 13-759.

Assistance Act of 1972, referred to in this section, is codified as 31 U.S.C. § 6701 et

U.S. Code. The State and Local Fiscal seq.

19-7-603. Administration.

The Office of Intergovernmental Services shall be responsible for carrying out the duties and responsibilities of this subchapter.

History. Acts 1983, No. 498, § 3; A.S.A. 1947, § 13-760.

19-7-604. Federal grants, aids, and reimbursement procedures.

(a) REQUESTS FOR FEDERAL GRANTS. (1) All formal applications for federal funds for grants, aids, and reimbursements originated by a state agency, board, commission, department, or institution shall be

submitted to the Department of Finance and Administration prior to their submission to the granting source.

(2) Applications shall include, in a manner prescribed by the Director of the Department of Finance and Administration, a summary of the proposed project.

(3) The summary will include the indirect cost rate of the applicant agency, together with a projection of funds to be received as indirect cost reimbursement.

(4) The department shall file with the Bureau of Legislative Research of the Legislative Council a summary of these applications for their review.

(b) PRELIMINARY PROPOSALS. (1) Preliminary, preapplication, or informal proposals which may eventually result in a commitment of personnel, space, facilities, or state funds shall be submitted to the department at the time they are submitted to the federal granting agency.

(2) In order to eliminate overlap, inefficiency, or a violation of legislative intent, the director may require a review of the proposal, soliciting comment from other agencies which might be affected, and may require the suspension of negotiations until the review is completed.

(3) The provisions of this subsection shall not be applicable to institutions of higher education. However, a copy of the preliminary proposals shall be submitted to the department for the information of the department.

(c) PROCEDURAL REQUIREMENTS. The department shall prescribe procedures relative to preliminary proposals and formal applications for federal grants, aids, and reimbursements.

(d) RECEIPT OF FUNDS. (1) When any state agency receives notification of an award of any federal funds, grants, aids, or reimbursements, including unsolicited funds, the department shall be notified on forms to be prescribed by the director.

(2) Included on such forms will be a section to report payments from federal funds for indirect cost reimbursements resulting from:

(A) Overhead costs of the agency, board, commission, department, or institution; and

(B) Overhead costs of state central services allocated to that agency, board, commission, department, or institution through the Consolidated Statewide Cost Allocation Plan.

(3) The department will provide the Bureau of Legislative Research of the Legislative Council a summary of such notifications for review.

(e) STATE CLEARINGHOUSE. (1) The Office of Intergovernmental Services is to function as the state clearinghouse for coordinating the review and comment process relative to applications for federal funding assistance under Executive Order 12372 and other provisions of this subchapter.

(2) The department shall be responsible, in consultation with state and local elected officials, for developing procedures to implement the review and comment process for applications for federal funding assistance.

History. Acts 1983, No. 498, § 4; A.S.A. aids, and reimbursement procedures, 1947, § 13-761. § 19-4-1801 et seq.

Cross References. Federal grants,

19-7-605. Indirect cost reimbursements.

(a) The Office of Intergovernmental Services shall be responsible for preparation of the Consolidated Statewide Cost Allocation Plan for the allocation of state central services' overhead costs to the various state agencies who elect to seek reimbursement for them according to the provisions of Office of Management and Budget Circular A-87.

(b) The office shall also:

(1) Prepare indirect cost rate proposals on behalf of the state agencies; or

(2) Provide assistance as necessary to state agencies that prepare their own indirect cost rate proposals if the state agency elects to seek payment from the federal government for these costs.

(c) The office shall be authorized to negotiate the statewide cost allocations with the appropriate federal authorities and indirect cost proposals prepared by the office with any agency.

(d) Any agency that chooses to utilize indirect cost rates according to the provisions of this subchapter shall submit a copy of its indirect cost rate proposals to the Department of Finance and Administration and also a copy of its indirect cost rate agreement after the cognizant federal agency has approved the rate proposal.

History. Acts 1983, No. 498, § 5; 1985, No. 513, § 1; A.S.A. 1947, § 13-762.

19-7-606. Transfer of reimbursements.

The Director of the Department of Human Services is authorized to transfer from the Department of Human Services federal funds as designated by the Chief Fiscal Officer of the State to the appropriate state fund account those federal funds recovered as reimbursement for indirect costs which are not required to be transferred to the Constitutional Officers Fund or State Central Services Fund pursuant to this subchapter.

History. Acts 1989 (1st Ex. Sess.), No. 44, § 9. deemed to be superseded by this section. The former section was derived from Acts

A.C.R.C. Notes. Former § 19-7-606, 1985, No. 649, § 26; A.S.A. 1947, § 13-763.1. concerning transfer of reimbursements, is

19-7-607. Expenditure of federal funds.

The Department of Finance and Administration is authorized to receive federal funds, enter into contracts with federal agencies, and expend any such funds as necessary to accomplish the duties set out in this subchapter.

History. Acts 1983, No. 498, § 7; A.S.A. 1947, § 13-764.

19-7-608. Information exchange programs.

The Office of Intergovernmental Services is authorized to cooperate with agencies of the federal government in the development and utilization of intergovernmental information exchange programs which may be of benefit to the State of Arkansas.

History. Acts 1983, No. 498, § 8; A.S.A. 1947, § 13-765.

19-7-609. Revenue sharing.

The Office of Intergovernmental Services shall be responsible for providing technical assistance to units of local government on matters relating to federal revenue sharing. The office is designated as the liaison between the federal Office of Revenue Sharing and local governments in Arkansas.

History. Acts 1983, No. 498, § 9; A.S.A. 1947, § 13-766.

19-7-610. Advice of legislative departments.

It is recognized by the legislative and executive departments of government that some of the executive departments' authority or responsibility as provided in this subchapter should possibly have the legislative departments' concurrence before proceeding with such authority or responsibility. The legislative department, via the Legislative Joint Auditing Committee, the Legislative Council, joint interim committees, interim committees, or subcommittees of the foregoing may request the Director of the Department of Finance and Administration to seek the legislative department's advice before exercising certain authority or responsibility as authorized by this subchapter.

History. Acts 1983, No. 498, § 10; A.S.A. 1947, § 13-767.

A.C.R.C. Notes. As enacted, former subsection (A) of this section provided that § 1 of Article 4 of the Constitution of the State of Arkansas provides that the power of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confined to a separate body of magistracy; those which are legislative to one, those which are executive to another, and those

which are judicial to another.

As enacted, former subsection (B) of this section provided that § 2 of Article 4 of the Constitution of the State of Arkansas provides that no person, or collection of persons, being one of the legislative, executive, or judicial departments, shall exercise any power belonging to either of the others, except in the instances expressly directed or permitted in the state Constitution.

SUBCHAPTER 7 — TITLE XX SOCIAL SECURITY FUNDS**SECTION.**

- 19-7-701. Contract services — Advance payment.
19-7-702. Minimum program standards.
19-7-703. Loan provision.
19-7-704. Deduction of tax withholding for individual contract providers.

SECTION.

- 19-7-705. Use of funds.
19-7-706. Transfer of funds and appropriations.
19-7-707. Transfer of retirement benefits.
19-7-708. Personnel transfers.

U.S. Code. Title XX of the Social Security Act, referred to in this subchapter, is codified as 42 U.S.C. § 1397 et seq.

Effective Dates. Acts 1981, No. 538, § 16: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 772, § 10: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

19-7-701. Contract services — Advance payment.

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the Director of the Department of Human Services is authorized to pay one-twelfth (1/12) of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of the reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the director has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the director shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

(c) If the request is approved, the Chief Fiscal Officer of the State will loan the necessary amount to the appropriate fund accounts within the

Department of Human Services from the Budget Stabilization Trust Fund. The balance of any such loans made during the course of a fiscal year, however, will be recovered by the department and repaid to the State Budget Revolving Fund by June 30 of that fiscal year.

History. Acts 1981, No. 538, § 4; A.S.A. 1947, § 13-743. the State Budget Revolving Fund in (c) should probably be read to mean the Budget Stabilization Trust Fund.

Publisher's Notes. The reference to

19-7-702. Minimum program standards.

(a) In order to unify and consolidate standards for services of clients under programs funded by Title XX social security funds, the Director of the Department of Human Services shall establish, by July 1, 1980, minimum program standards for the services provided by all government or private agencies under Title XX.

(b) In developing these standards, the director will consult with such other agencies, organizations, or individuals as may be appropriate.

(c) These standards may be amended by the director from time to time, provided that the terms of the Arkansas Administrative Procedure Act, § 25-15-201 et seq. are complied with.

History. Acts 1981, No. 538, § 5; A.S.A. 1947, § 13-744.

19-7-703. Loan provision.

(a) It is found and determined that the continued operations of the Title XX Services Program of the Department of Human Services, in accordance with the approved annual operations plan, are, from time to time, seriously impaired by either administrative oversights and delays by the Office of Grants Management of the United States Department of Health and Human Services or by the processes of federal fiscal year conversion. It is further found and determined that such delays in the proper preparation and transmittal of federal grant award authorizations and letter of credit instruments have created unnecessary hardships on the providers of services and the needy citizens of this state. Therefore, upon certification of the pending availability of federal funding by the Director of the Department of Human Services, the Chief Fiscal Officer of the State may grant temporary advances, the maximum amount not to exceed five million dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the appropriate account of the Department of Human Services so affected by such delays.

(b) The Chief Fiscal Officer of the State shall recover within a period of twenty (20) days such temporary advances upon receipt of the grant award authorizations or letter of credit instruments.

History. Acts 1981, No. 538, § 6; A.S.A. 1947, § 13-745.

19-7-704. Deduction of tax withholding for individual contract providers.

(a) It is found and determined that certain rules and regulations of the Social Security Administration and the Internal Revenue Service require the deduction of Federal Insurance Contributions Act and federal income tax withholding from persons providing services under individual purchase-of-service contracts, who are in fact independent contractors, or employees of the person receiving the service, and that there is presently no provision for payment of Federal Insurance Contributions Act and federal income tax withholding for these individuals. It is further found and determined that the use of individual contracts is necessary to the operation of the Title XIX and Title XX programs, particularly in the areas of day care and services to the elderly. Therefore, whenever the regulations of the Social Security Administration or the Internal Revenue Service require the deduction of Federal Insurance Contributions Act or federal income tax withholding for an individual providing services under a Title XX individual purchase-of-service contract, the Department of Human Services may pay the necessary Federal Insurance Contributions Act tax out of federal funds and state or local donated matching funds and may collect the necessary Federal Insurance Contributions Act and federal income tax withholding as agent for the client receiving the services.

(b) Individuals for whom Federal Insurance Contributions Act tax is paid and Federal Insurance Contributions Act and federal income tax withholding is deducted under this section shall not be considered as employees of the state for the purposes of determining eligibility for unemployment compensation or workers' compensation, for the purpose of state income tax withholding, or for any other purposes.

History. Acts 1981, No. 538, § 7; 1981, No. 772, § 4; A.S.A. 1947, §§ 13-746, 13-746n.

U.S. Code. The Federal Insurance Contributions Act, referred to in this sec-

tion, is codified as 26 U.S.C. § 3101 et seq. Titles XIX and XX of the Social Security Act are codified as 42 U.S.C. § 1396 et seq. and 42 U.S.C. § 1397 et seq., respectively.

19-7-705. Use of funds.

The Director of the Department of Human Services is authorized to use funds earned through service fees, audit settlements, or federal program settlements for operation of the Title XX service program. Any unanticipated federal funding received under this provision will be handled in accordance with the terms of the Miscellaneous Federal Grant Act, § 19-7-501 et seq.

History. Acts 1981, No. 538, § 8; A.S.A. 1947, § 13-747.

19-7-706. Transfer of funds and appropriations.

(a)(1) The Director of the Department of Human Services, in accordance with rules established by the Chief Fiscal Officer of the State, shall have the authority to transfer funds and appropriations from the appropriate division of the Department of Human Services to the various agencies of the department which receive allotments of Title XX funds. These transfers shall be limited to the allotment of funds available to each agency within the department.

(2)(A) In the event that funds and appropriations transferred under this section are not fully utilized, they will be available for transfer back to the appropriate division of the department for reallocation.

(B) It is further intended that if transfer of appropriations among line items appropriated to the appropriate division of the department becomes necessary for effective operation of the program, these shall be made in accordance with rules established by the Chief Fiscal Officer of the State. However, no such transfer will be used to increase authorization for regular salaries.

(b) The Chief Fiscal Officer of the State and the director shall cooperate to establish such fund accounts for deposit and disbursement of federal and local Title XX funds as are necessary for the orderly operation of a Title XX services program. The Chief Fiscal Officer of the State and the director shall establish procedures for the transfers of funds necessary to make reimbursement to providers or to agency fund accounts in payment for eligible services. These procedures will include provision for use of state matching funds where appropriated by law.

History. Acts 1981, No. 538, § 9; A.S.A. 1947, § 13-748.

19-7-707. Transfer of retirement benefits.

Any employee who is now a member of any retirement system shall not lose any retirement benefits accrued in the system by the reorganization of the Title XX service program. An employee so affected shall have the option of continuing as a member of the retirement system of which the employee is a member at the time of transfer or to join the retirement system for which the transfer makes the employee eligible. However, the affected employee shall make his or her election within six (6) months from the date of transfer.

History. Acts 1981, No. 538, § 10; A.S.A. 1947, § 13-749.

19-7-708. Personnel transfers.

No employee transferred as a result of the reorganization of the Office of Title XX Services shall lose status under the Arkansas Rules for Merit Systems Administration as a result of transfer.

History. Acts 1981, No. 538, § 11; A.S.A. 1947, § 13-750.

Publisher's Notes. This section may

be affected by Acts 1985, No. 348, § 5, reorganizing the Department of Human Services. See § 25-10-101 et seq.

SUBCHAPTER 8 — SALE OR LEASE OF MINERALS, OIL, AND GAS

SECTION.

19-7-801. Federal lands other than military.

SECTION.

19-7-802. Federal military lands.

Effective Dates. Acts 1983, No. 157, § 4: Apr. 16, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Federal Mineral Leasing Act monies received by the State Treasurer from the United States Government are now distributed under the provisions of Section 1 of Act 21 of 1945, as amended; that increased leasing of minerals, oil, and gas and/or the sale or leasing of minerals, oil, and gas on military and other lands belonging to the United States Government located in this State has the potential of generating substantial funds for the use and benefit of the State of Arkansas and its political subdivisions; that clarification of the method of distributing Federal Mineral Leasing Act monies derived from federal military lands different from the method set forth in Act 21 of 1945, as amended, is necessary to provide for a more equitable use and distribution of said monies between the State of Arkansas and its political subdivisions in which such federal mineral lands, other than military lands, are located. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and

safety shall be in full force and effect from and after April 16, 1983."

Acts 1983, No. 921, § 4: Apr. 16, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Federal Mineral Leasing Act monies received by the State Treasurer from the United States Government are distributed under the provisions of Section 1 of Act 21 of 1945, as amended; that increased leasing of minerals, oil, and gas and/or the leasing of minerals, oil, and gas on lands other than military lands belonging to the United States Government located in this State has the potential of generating substantial funds for the use and benefit of the State of Arkansas and its political subdivisions; that a method of distributing such Federal Mineral Leasing Act monies different from the method set forth in Act 21 of 1945 is necessary to provide for a more equitable use and distribution of said monies between the State of Arkansas and its political subdivisions. Therefore an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after April 16, 1983."

19-7-801. Federal lands other than military.

(a) Such funds as are received from and after April 15, 1983, by the Treasurer of State from the federal government on account of the sale of minerals, oil, and gas or the lease of minerals, oil, and gas on lands other than military lands belonging to the federal government located in the state shall be deposited into the State Treasury, and the Treasurer of State shall credit the funds as follows:

(1) All these funds received during each calendar year shall be first distributed to the respective counties in which the funds were gener-

ated until the benefiting counties receive a distribution of these funds equal to the amount of the funds received in the 1981-82 fiscal year, and all moneys in excess of the amount generated in the counties in excess of the amount received in the 1981-82 fiscal year shall be retained by the Treasurer of State for distribution as provided in subdivision (a)(2) of this section. Funds received by each benefiting county under this subsection shall be allocated in the same proportion, to be used for the same purposes as funds received by each county under the provisions of subdivision (a)(2) of this section.

(2) After the requirements of subdivision (a)(1) have been met each year, all additional funds so deposited into the State Treasury shall be credited by the Treasurer of State as follows:

(A) Fifty percent (50%) of the funds shall be credited to the General Revenue Fund Account of the State Apportionment Fund, for distribution to the various funds participating in the distribution of general revenues in the respective proportions to each such fund, to be used for the respective purposes as set forth in the Revenue Stabilization Law, § 19-5-101 et seq.;

(B) Fifty percent (50%) of the funds shall be distributed to the counties having land in the nonmilitary federal installation from which the sale or lease of minerals, oil, or gas has generated the funds, with each county to receive a proportionate part of the funds equal to the ratio of the total number of acres of land in the federal installation in each county as the acreage bears to the total number of acres of the federal installation in all counties having land in the federal installation to be distributed by the Treasurer of State as follows:

(i) Sixty percent (60%) of the funds to be transferred to the Public School Fund, to be distributed by the Department of Education to the school districts whose boundaries include a portion of the nonmilitary federal installation in the counties. Should there be more than one (1) school district whose boundaries include a portion of the federal installation within a county receiving these funds, then each school district in that county shall receive a proportionate share of the funds allocated by this section to the Public School Fund for the county, to be distributed as follows:

(a) Fifty percent (50%) of the funds shall be divided between the school districts based on the ratio of the total number of acres of land in each school district within the boundaries of the federal installation in the county as the acreage bears to the total number of acres in the federal installation in the county; and

(b) The other fifty percent (50%) of the funds shall be divided between the school districts based on the most recent average daily membership of each school district as defined in § 6-20-303 [Repealed.];

(ii) Fifteen percent (15%) of the funds shall be distributed to the County Aid Fund, to be distributed by the Treasurer of State to the county road funds of the counties to which these moneys are allocated;

(iii) Twenty-five percent (25%) of the funds shall be distributed to the County Aid Fund, for distribution by the Treasurer of State to the county treasurer of the county to which the funds are to be distributed. Upon receipt of these funds, the county treasurer of the county shall distribute the funds to the county general fund and to the respective cities, towns, school districts, community college districts, and county and municipal libraries in the county in a proportion that each taxing unit shares in the real and personal property taxes collected in the county, with the exception that the school districts in the county and the county road fund which received a distribution as set out in subdivisions (a)(2)(B)(2)(i)-(iii) of section shall not be entitled to receive an additional share of the funds to be distributed under this subdivision.

(b) The provisions of this section shall govern with respect to such funds as are received by the Treasurer of State from the federal government on account of the sale of minerals, oil, and gas or the lease of minerals, oil, and gas on lands other than military lands belonging to the the federal government located in this state and shall supersede, and be in lieu of, the method provided for the distribution and use of federal Mineral Leasing Act moneys received by the State of Arkansas as provided in § 19-7-402.

History. Acts 1983, No. 921, §§ 1, 2; 921, § 3, that provided for the expiration of the 1983 act on June 30, 1985.
A.S.A. 1947, §§ 13-706.1, 13-706.2; Acts 1999, No. 1318, § 5.

Publisher's Notes. Acts 1985, Nos. 164 and 705, § 1, repealed Acts 1983, No. U.S. Code. The Mineral Leasing Act, referred to in this section, is codified as 30 U.S.C. § 181 et seq.

19-7-802. Federal military lands.

(a) Such funds as are received from and after April 15, 1983, by the Treasurer of State from the federal government on account of the sale of minerals, oil, and gas or the lease of minerals, oil, and gas on military lands belonging to the federal government located in this state, referred to in this section as "federal military lands", shall be deposited into the State Treasury, and the Treasurer of State shall credit funds as follows:

(1) Fifty percent (50%) of the funds shall be credited to the General Revenue Fund Account of the State Apportionment Fund, for distribution to the various funds participating in the distribution of general revenues in the respective proportions to each such fund, to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.;

(2) Fifty percent (50%) of the funds shall be distributed to the counties having land in the military reservation from which the sale or lease of minerals, oil, or gas has generated such funds, with each county to receive a proportionate part equal to the ratio of the total number of acres of federal military lands in each county as the land bears to the total acreage of the federal military lands in all the counties having such lands in them, to be distributed by the Treasurer of State as follows:

(A) Sixty percent (60%) of the funds to be transferred to the Public School Fund, to be distributed by the Department of Education to the school districts whose boundaries include a portion of the federal military lands in these counties. Should there be more than one (1) school district whose boundaries include a portion of the federal military lands within a county receiving these funds, then each school district in that county shall receive a proportionate share of the funds allocated by this section to the Public School Fund for the county, to be distributed as follows:

(i) Fifty percent (50%) of the funds shall be divided between the school districts based on the ratio of the total number of acres of federal military lands in each school district in the county as the acreage bears to the total number of acres in the federal military lands in the county; and

(ii) The other fifty percent (50%) of the funds shall be divided between the school districts based on the most recent average daily membership of each school district as defined in § 6-20-303 [repealed];

(B) Fifteen percent (15%) of the funds to the County Aid Fund, to be distributed by the Treasurer of State to the county road fund of the county to which the moneys are allocated; and

(C) Twenty-five percent (25%) of the funds to the County Aid Fund for distribution by the Treasurer of State to the county treasurer of the county to which the funds are to be distributed. Upon receipt of these funds, the county treasurer of the county shall distribute the funds to the county general fund and to the respective cities, towns, school districts, community college districts, and county and municipal libraries in the county in a proportion that each taxing unit shares in the real and personal property taxes as collected in the county, with the exception that the school districts in the county and the county road fund which received a distribution as set out in subdivisions (a)(2)(A) and (B) of this section shall not be entitled to receive an additional share of the funds to be distributed under subdivision (a)(2)(C) of this section.

(b) The provisions of this section shall govern with respect to such funds as are received by the Treasurer of State from the federal government on account of the sale of minerals, oil, and gas or the lease of minerals, oil, and gas on military lands belonging to the federal government located in this state and shall be in lieu of the method provided for the distribution and use of federal Mineral Leasing Act moneys received by the State of Arkansas from federal lands, other than federal military lands, as provided in § 19-7-402.

History. Acts 1983, No. 157, §§ 1, 2; A.S.A. 1947, §§ 13-752, 13-753; Acts 1999, No. 1318, § 6.

Publisher's Notes. Acts 1985, Nos. 164 and 705, § 1, repealed Acts 1983, No.

157, § 3, which had provided for the expiration of the 1983 act on June 30, 1985.

U.S. Code. The Mineral Leasing Act, referred to in this section, is codified as 30 U.S.C. § 181 et seq.

SUBCHAPTER 9 — RESETTLEMENT OR RURAL REHABILITATION PROJECTS

SECTION.

- 19-7-901. Definitions.
19-7-902. Agreements for payments by United States in lieu of taxes.
19-7-903. Determination of payment amounts.
19-7-904. Contents of agreement.
19-7-905. Duplicate copies of agreement.
19-7-906. Government project fund of county.

SECTION.

- 19-7-907. Statement of apportionment — Distribution of funds.
19-7-908. Right of political subdivision to request payment.
19-7-909. Disposition of funds.
19-7-910. Services of subdivision not to be denied.

19-7-901. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) "Agreement" means a contract and shall include renewals and alterations of the contract;
- (2) "Political subdivision" means any agency or unit of this state which is authorized to levy taxes or empowered to cause taxes to be levied;
- (3) "Service" means such public and municipal functions performed for property in and persons residing within a political subdivision;
- (4) "County judge" means the county judge of any county in this state;
- (5) "Project" means any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision and shall include the persons inhabiting such a project;
- (6) "Governing body" means the board, body, or persons in which the powers of a political subdivision as body corporate, or otherwise, are vested; and
- (7) "Fund" means, unless otherwise expressed, the government project fund established pursuant to § 19-7-906.

History. Acts 1939, No. 361, § 1; A.S.A. 1947, § 13-717.

19-7-902. Agreements for payments by United States in lieu of taxes.

(a) The county judge of any county in this state is authorized and empowered to make requests of the United States, for and on behalf of the county and the political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay. The county judge may enter into agreements with the United States in the name of the county for the performance of services by the county and such political subdivisions for the benefit of the project and for the payment by the United States to the county, in one (1) or more installments, of such sums in lieu of taxes.

(b) Each political subdivision shall participate in such funds in proportion to the prevailing local tax involved on such property.

History. Acts 1939, No. 361, § 2; A.S.A. 1947, § 13-718.

19-7-903. Determination of payment amounts.

The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf the agreement is entered into, of performing services for the benefit of a project during the period of the agreement after taking into consideration the benefits to be derived by the subdivision from the project. However, these sums shall not be in excess of the taxes which would result to the subdivision for the period if the real property of the project within the subdivision were taxable.

History. Acts 1939, No. 361, § 3; A.S.A. 1947, § 13-719.

19-7-904. Contents of agreement.

Each agreement entered into pursuant to § 19-7-902 shall contain the names of the political subdivisions with respect to which it is consummated and a statement of the proportionate share of the payment by the United States to which each subdivision shall be entitled.

History. Acts 1939, No. 361, § 4; A.S.A. 1947, § 13-720.

19-7-905. Duplicate copies of agreement.

(a) The county judge shall prepare duplicate copies of each agreement for payment of sums in lieu of taxes and file one (1) with the county treasurer and one (1) with the clerk of the county court.

(b) The clerk of the county court shall notify each political subdivision, for and on whose behalf the agreement is executed, that it has been consummated and shall state the share of the payment due under it to which the subdivision is entitled.

(c) On or before the date on which any payment of sums in lieu of taxes is due, the county treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. The county treasurer shall give to the United States a receipt in the name of the county for all payments of sums in lieu of taxes.

History. Acts 1939, No. 361, § 5; A.S.A. 1947, § 13-721.

19-7-906. Government project fund of county.

(a) The county treasurer shall establish a fund in the county treasury to be known as the government project fund. It shall contain an account with each political subdivision which is entitled to a share of a payment in lieu of taxes.

(b) Whenever payment is received, the county treasurer shall, without any deduction, apportion it to the several accounts in the fund pursuant to the agreement under which the payment is made.

History. Acts 1939, No. 361, § 6; A.S.A. 1947, § 13-722.

19-7-907. Statement of apportionment — Distribution of funds.

(a) After apportioning any payments to the several accounts, as provided in § 19-7-906, the county treasurer shall prepare, in duplicate, a complete itemized statement of the apportionment, one (1) copy of which shall be filed with the county judge and the other filed with the clerk of the county court.

(b)(1) The county judge, by appropriate resolution, shall order the distribution of each subdivision's share of sums in lieu of taxes to the several subdivisions entitled to a share.

(2) The clerk of the county court shall thereupon draw warrants upon the county treasurer to the order of the political subdivisions entitled to a share of such payment of sums in lieu of taxes.

(3) Whenever such warrant is presented to the county treasurer, he or she shall debit the proper account in the fund and shall pay immediately the amount of such warrant in full, without any deduction, to the political subdivision presenting it, notwithstanding any law providing the order in which warrants shall be paid.

(4) The county treasurer shall not honor such warrant unless it is countersigned by the presiding officer of the governing body of the political subdivision.

(c)(1) The acceptance by a political subdivision of any warrant delivered pursuant to this section shall be considered as an approval of the agreement under which the payment was received.

(2) If any governing body of a political subdivision shall refuse to receive any warrant delivered pursuant to this section, the amount thereof shall be refunded by the county to the United States.

History. Acts 1939, No. 361, § 7; A.S.A. 1947, § 13-723.

19-7-908. Right of political subdivision to request payment.

(a) If the United States declines to deal with a county judge with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie in more than one (1) county, then that subdivision is authorized to make request of the

United States for the payment of such sums in lieu of taxes as the United States may agree to pay. The subdivision is empowered to enter into agreements with the United States for the performance by the subdivision of services for the benefit of a project, and for the payment by the United States to the subdivision, in one (1) or more installments, of sums in lieu of taxes.

(b) The amount of the payment may be based upon the cost of performing the services during the period of the agreement, after taking into consideration the benefits to be derived by the subdivision from the project, but shall not be in excess of the taxes which would result to the political subdivision during the period if the real property of the project within the political subdivision were taxable.

(c) Whenever any payment is received by a subdivision under an agreement entered into pursuant to this section, the governing body of the subdivision shall issue a receipt of the payment to the United States.

History. Acts 1939, No. 361, § 8; A.S.A. 1947, § 13-724.

19-7-909. Disposition of funds.

(a) All moneys received by a political subdivision pursuant to § 19-7-907 or § 19-7-908 shall be deposited into such funds or items of a fund as may be designated in the agreement.

(b) If the agreement does not make such designation, the moneys shall be deposited into such funds or items of a fund as the governing body of the subdivision shall, by appropriate resolution, direct.

History. Acts 1939, No. 361, § 9; A.S.A. 1947, § 13-725.

19-7-910. Services of subdivision not to be denied.

In the absence of an agreement for payment of sums in lieu of taxes by the United States as provided in this subchapter, no provision of this subchapter shall be construed to relieve any political subdivision of this state of the duty of furnishing for the benefit of a project all services which the subdivision usually furnishes for the property in, and persons residing within, the subdivision without a payment of sums in lieu of taxes.

History. Acts 1939, No. 361, § 10; A.S.A. 1947, § 13-726.

SUBCHAPTER 10 — EDUCATIONAL FUNDING

SECTION.

19-7-1001. Federal Adult Basic Education Fund.

SECTION.

19-7-1002. Federal Elementary and Secondary Education Fund.

19-7-1001. Federal Adult Basic Education Fund.

There shall be established on the books of the Treasurer of State a fund to be known as the “Federal Adult Basic Education Fund”.

History. Acts 1965, No. 328, § 3.

19-7-1002. Federal Elementary and Secondary Education Fund.

There shall be established on the books of the Treasurer of State a fund to be known as the “Federal Elementary and Secondary Education Fund”.

History. Acts 1965, No. 329, § 3.

CHAPTER 8

DEPOSITORIES FOR PUBLIC FUNDS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. SECURITIES FOR DEPOSITS.
3. LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT.

RESEARCH REFERENCES

Am. Jur. 63A Am. Jur. 2d, Pub. Funds,
§ 7 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-8-101. Definitions.
- 19-8-102. Legal funds.
- 19-8-103. Penalties.
- 19-8-104. Investment of public funds.
- 19-8-105. Annual list of eligible banks.
- 19-8-106. Depository boards.
- 19-8-107. Depository agreements.
- 19-8-108. Mortgages and securities as security.

SECTION.

- 19-8-109. Housing agency bonds as security.
- 19-8-110. Farm credit obligations as security.
- 19-8-111. Additional authority for investment of public funds.

A.C.R.C. Notes. Section 19-3-207 et seq. supersedes this subchapter and § 19-8-201 et seq. with respect to state funds only.

Cross References. Depositories of improvement districts required to give bond, § 14-86-1801 et seq.

Suburban improvement districts to select depository, § 14-92-207.

Effective Dates. Acts 1921, No. 465,

§ 3: approved Mar. 26, 1921. Emergency clause provided: “That all laws and parts of laws in conflict with this act, be, and the same are hereby repealed, and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage.”

Acts 1933 (1st Ex. Sess.), No. 26, § 2: Sept. 2, 1933. Emergency clause provided:

"Whereas, the securities now provided by law to be accepted as security for the deposit of public funds are totally inadequate and

"Whereas, such condition has meant and will mean great loss to the public, an emergency is hereby declared and this act being necessary for the immediate preservation of the public peace, health and safety, it shall be in full force and effect from and after its passage and approval."

Acts 1935, No. 21, § 6: approved Feb. 7, 1935. Emergency clause provided: "All laws and parts of laws in conflict herewith are hereby repealed. It is ascertained that due to the prevailing deposit rates of interest and due to the requirements for making deposit of public funds it is impossible for such funds to be lawfully deposited in banks and impossible for many public officials to obtain or make official bonds. An emergency is therefore declared to exist and this act shall take effect and be in full force from and after its passage."

Acts 1937, No. 174, § 2: approved Mar. 3, 1937. Emergency clause provided: "It is found and declared to be a fact that many people in this State will be applicants for loans to be insured by the Federal Housing Administration, and that they are in need of immediate relief, that the passage of this act will facilitate the making of such loans, give relief to debtors and contribute to the better business conditions of the State; therefore, this act being necessary for the preservation of the public peace, health and safety of the State, an emergency is declared to exist, and this act shall be in force and effect from and after its passage."

Acts 1945, No. 62, § 2: approved Feb. 21, 1945. Emergency clause provided: "All laws and parts of laws in conflict herewith are hereby repealed. It is ascertained that due to the prevailing deposit rates of interest and due to the requirements for making deposit of public funds it is often impossible for such funds to be lawfully deposited in banks within the required time limit and impossible for many public officials to obtain or make official bonds. An emergency is therefore declared to exist and this act shall take effect and be in full force from and after its passage."

Acts 1947, No. 122, § 2: effective on passage.

Acts 1964 (1st Ex. Sess.), No. 18, § 3: Mar. 27, 1964. Emergency clause pro-

vided: "It is hereby found and determined by the General Assembly that the laws of this State providing for the designation of depositories of public funds are working an undue hardship upon newly chartered banks in the State; that clarification of such laws is necessary in order to prevent undue, unnecessary and costly delay in designating such newly chartered banks as depositories of public funds, and that only by the immediate passage of this Act may such situation be corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 107, § 4: Feb. 12, 1973. Emergency clause provided: "It has been found and it is hereby declared that many Arkansas school districts are presently losing interest revenues because of confusion regarding the laws governing deposit of school district funds and that this condition can be bettered only by the immediate effectiveness of this Act. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in force and effect upon its passage and approval."

Acts 1975, No. 216, § 7: Feb. 18, 1975. Emergency clause provided: "In order that the Farm Credit System can continue to provide farm credit to Arkansas farmers and improve agricultural conditions in Arkansas, an emergency is declared to exist and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1995, No. 770, § 5: Mar. 24, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that private donations are many times made to municipalities; and that under present law, the investment of these funds is so restricted that earnings are substantially decreased; that this act establishes the Prudent Man Rule as the standard for investing these funds; and that this act shall be given effect immediately in order to grant municipalities the ability as soon as possible to enhance their earnings on donated funds. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace,

health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 2005, No. 86, § 2: Feb. 8, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that local communities and banks are often not receiving the benefits from the local investment of the communities’ public funds due to the size of their deposits; that local communities can receive the benefits from the investment of local public funds while ensuring the safety and soundness of the investments by providing additional authority for the investment of those funds in accounts insured by the Federal De-

posit Insurance Corporation; and that the exercise of the authority granted by this act is immediately necessary to enable local banks to better serve their local communities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

19-8-101. Definitions.

(a) “Public funds” or “funds” means any and all kinds of funds handled by treasurers, collectors, commissioners, sheriffs, and clerks.

(b) “Bank” or “banking institution” means any state bank, national bank, savings bank, savings association, thrift, or other financial institution authorized to do business and having a main office or branch office in this state, which is insured by the Federal Deposit Insurance Corporation.

History. Acts 1935, No. 21, § 4; Pope’s A.S.A. 1947, § 13-804; Acts 2001, No. Dig., § 4330; Acts 1973, No. 89, § 2; 1436, § 1.

19-8-102. Legal funds.

The legal funds referred to in §§ 19-8-101 — 19-8-107 as being eligible for deposit in depositories shall include any and all funds that may come into the hands of all treasurers, collectors, commissioners, sheriffs, and clerks by reason of their official capacities as commissioners.

History. Acts 1935, No. 21, § 4; Pope’s Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804.

19-8-103. Penalties.

(a) It is a felony, punishable by fine of not more than one thousand dollars (\$1,000) or one (1) year in prison, or both, for any officer of any bank to accept for deposit more public funds in the aggregate than that amount designated by § 19-8-101 — 19-8-107. In no instance shall more than twenty-five percent (25%) of the total general deposits of public funds be accepted until they have been reduced to the proper proportion of general deposits. When necessary, the depository boards

are authorized to order a reduction of deposits in any bank so as to conform to the twenty-five percent (25%) limitation provided for in this section. Any public officer knowingly depositing public funds in excess of this amount shall likewise be guilty of a felony and subject to the same penalty as prescribed in this subsection and shall be removed from office.

(b) The penalties provided in this section shall also apply in the event of a depository bank investing any deposits in excess of the twenty-five percent (25%) limitation in any manner other than that provided in the clause of § 19-8-105 permitting a deposit in excess of the twenty-five percent (25%) limitation.

History. Acts 1935, No. 21, § 5; Pope's Dig., § 4331; A.S.A. 1947, § 13-805.

19-8-104. Investment of public funds.

(a) Except as provided in subsections (b) and (c) of this section, all public funds as defined in § 19-8-101 shall be deposited into banks located in the State of Arkansas.

(b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from the provisions of this section and deposit state funds in an out-of-state bank under the following conditions:

(1) The school district is designated as an isolated school district under §§ 6-20-601 and 6-20-602 [repealed];

(2) The school district lies on the borders of the state line;

(3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;

(4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and

(5) The out-of-state bank meets all other requirements concerning collateralization of state funds.

(c) Any private donations to cities of the first class or the second class or incorporated towns, unless restrictions are established by the donor, may be invested in accordance with the "prudent man rule" established by § 28-71-105.

History. Acts 1935, No. 21, § 5; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1991, No. 459, § 1; 1995, No. 770, § 1.

Publisher's Notes. The version of § 6-20-601 referred to in (b)(1) was repealed in 1997.

19-8-105. Annual list of eligible banks.

(a) Annually, on December 1, the Bank Commissioner shall furnish to the governing board of each city, or town officer, and the county board of each county, and also any officer of any improvement district or any other political subdivision, having the supervision of public funds or funds belonging to the state or any political subdivision a list of all the banks or banking institutions doing business in this state which are

members of the Federal Deposit Insurance Corporation. The commissioner shall recommend the maximum amount of deposit of public funds each bank shall be allowed to receive. None of these public funds shall be deposited into any bank other than those contained in the list.

(b) In no instance shall the commissioner recommend, or any bank accept, for deposit more public funds than twenty-five percent (25%) of the total of its general deposits, exclusive of the public funds. Public money in excess of the amount allowed in this section, if approved by the governing board, may be deposited into an authorized bank if the excess deposit is carried in cash, United States Government Bonds, Housing and Home Finance Agency bonds, or demand loans on cotton of the kind commonly known as Commodity Credit Corporation loans, being only such loans as are guaranteed by the United States.

History. Acts 1935, No. 21, § 1; Pope's Dig., § 4327; A.S.A. 1947, § 13-801.

Publisher's Notes. As originally enacted, this section referred to the Home Owners' Loan Corporation. However, Re-

org. Plan No. 3 of 1947, effective July 27, 1947, 12 Fed. Reg. 4981, 61 Stat. 208, consolidated the Home Owners' Loan Corporation with other agencies into the Housing and Home Finance Agency.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Fifteenth Annual Survey of Arkansas Law, 15 U. Ark. Little Rock L.J. 427.

CASE NOTES

ANALYSIS

Liability of Bank Not Designated a Depository.
Savings and Loans.

Liability of Bank Not Designated a Depository.

A bank which permitted a circuit clerk to cash a check showing on its face it was made for drainage taxes, with notice clerk was committing a breach of trust, even though not designated as depository of public funds, was liable for participation

in the breach of trust irrespective of whether it was the clerk's agent or debtor. *Drainage Dist. of Poinsett County v. Citizens Bank of Jonesboro*, 205 Ark. 435, 170 S.W.2d 60 (1943).

Savings and Loans.

Arkansas savings and loans are not eligible as depositories for public funds under Act 21 of 1935. *Arkansas State Banking Dep't v. Arkansas League of Sav. Insts., Inc.*, 307 Ark. 474, 821 S.W.2d 472 (1991).

19-8-106. Depository boards.

(a)(1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and shall also designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b) The mayor, city clerk or recorder, and city collector shall constitute a board to designate depositories and supervise the depositing of municipal funds.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

History. Acts 1935, No. 21, § 2; Pope's No. 107, § 1; A.S.A. 1947, § 13-802; Acts Dig., § 4328; Acts 1945, No. 57, § 1; 1973, 1987, No. 250, § 1.

19-8-107. Depository agreements.

(a)(1) After the receipt from the Bank Commissioner of the list of banks or banking institutions and recommended amounts of public funds each may accept, it shall then be the duty of the depository boards to designate the banks or banking institutions in which the funds shall be deposited and to enter into a depository agreement with each designated institution.

(2) The boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner, upon request therefor, as being eligible as a depository of public funds under the laws of this state. The certificate shall contain the recommended amount of public funds the bank may accept.

(3)(A) All county depository agreements shall be entered into using standardized forms provided by the State Board of Finance.

(B) The forms shall include language necessary to achieve a perfected security interest in all collateral for deposits.

(b) All depository agreements shall continue in full force and effect until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board.

(c)(1) The treasurers or other public officials or other persons having custody of these funds shall deposit them in such designated depositories.

(2) The depositing of these funds in the designated depositories shall relieve the public officer or other person and his or her sureties from any

liability for the loss of the funds by reason of the default or insolvency of any depository.

(3) County officials are required to make timely investment of public funds in order to earn optimum interest consistent with the "prudent man" rule for investments as defined by Arkansas law.

(d)(1) County officials shall require security for the deposit or investment of public funds for amounts not fully insured directly by the United States.

(2) All security required under this subsection shall meet the requirements of an eligible security under §§ 19-8-203 and 23-47-203(c).

(3) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need so as to make an informed decision, including, but not limited to, quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

History. Acts 1935, No. 21, § 3; Pope's Dig., § 4329; Acts 1945, No. 62, § 1; 1947, No. 122, § 1; 1964 (1st Ex. Sess.), No. 18, § 1; A.S.A. 1947, § 13-803; Acts 1987, No. 250, §§ 2, 3; 1995, No. 232, § 9; 2003, No. 68, §§ 1, 2.

Amendments. The 2003 amendment

added (a)(3); added the subdivision designations in (d); in present (d)(1), substituted "shall require security" for "may require the collateralization" and deleted the former last sentence; added (d)(2); and substituted "Public officials" for "They" in present (d)(3).

CASE NOTES

ANALYSIS

County Funds.
General Deposits.
Manner of Deposit.
Sale of Bonds.
Subrogation.

County Funds.

Under Acts 1907, No. 208, as amended by Acts 1911, No. 258, no discretion was given the county court in the matter of selecting a depository for county funds; rather, the selection was to be made by advertisement and awarded to the highest responsible bidder. *Casey v. Independence County*, 109 Ark. 11, 159 S.W. 24 (1913) (decision under prior law).

Where a bank seeking to become the depository of county funds proposed to pay "one-fourth of one per cent per annum more than any other bid" offered, it was held that the proposition did not constitute a bid as it could not be acted upon alone without reference to anything outside itself. *Grant County Bank v. McClellan*, 112 Ark. 550, 166 S.W. 550 (1914) (decision under prior law).

General Deposits.

A deposit of the funds of an improvement district in a bank, although the funds were known to be a trust fund in the hands of the official depositing them, was held to be a general deposit in the absence of a written agreement making them a special deposit. *Taylor v. Street Imp. Dist.*, 183 Ark. 524, 37 S.W.2d 84 (1931) (decision under prior law).

An improvement district making a general deposit in a bank stood upon the same footing as other general creditors and was entitled to no preference on the bank's insolvency. *Taylor v. Street Imp. Dist.*, 183 Ark. 524, 37 S.W.2d 84 (1931) (decision under prior law).

Manner of Deposit.

The manner in which the funds of an improvement district were deposited in a depository bank was held not to affect the rights or obligations of the surety on its bond if they were so deposited as to clearly show that they were funds belonging to the district. *American Bonding Co. v. Board of Street Improv. Dist.*, 187 Ark. 300, 59 S.W.2d 605 (1933) (decision under prior law).

Sale of Bonds.

Where a bank undertook to sell county bonds for the county, the funds derived from their sale constituted trust funds for which the county was entitled to a preference on the bank's insolvency. *Taylor v. State*, 186 Ark. 648, 55 S.W.2d 83 (1932) (decision under prior law).

Where a bank, without authority, permitted bonds to be substituted for trust funds derived from the sale of county bonds, the fact that the substituted bonds were, by agreement, transferred to the

county depository and part of them sold did not estop the county from claiming the balance of the trust fund. *Taylor v. State*, 186 Ark. 648, 55 S.W.2d 83 (1932) (decision under prior law).

Subrogation.

Sureties indemnifying an improvement district for funds deposited in an insolvent bank had, by subrogation, no greater rights than the district had. *Little Rock St. Imp. Dist. No. 508 v. Taylor*, 184 Ark. 92, 40 S.W.2d 786 (1931) (decision under prior law).

19-8-108. Mortgages and securities as security.

Whenever securities must be furnished by any depository in the State of Arkansas as security for the deposit of any funds whatsoever, or wherever securities must be deposited with any official of the State of Arkansas pursuant to any statute of this state, mortgages insured and debentures issued by the Federal Housing Administration and obligations of national mortgage associations shall be considered eligible securities for such purposes.

History. Acts 1937, No. 174, § 1; Pope's Dig., § 4337; A.S.A. 1947, § 13-807.

19-8-109. Housing agency bonds as security.

All banks which are by law authorized to accept deposits of public funds may tender, and all officers or boards whose duty it is to award contracts for the deposit of public funds and all officers of boards whose duty it is to accept security for the deposit of public funds may accept bonds of the Housing and Home Finance Agency as security for deposits of public funds at the face value of the bonds.

History. Acts 1933 (1st Ex. Sess.), No. 26, § 1; Pope's Dig., § 4336; A.S.A. 1947, § 13-806.

Publisher's Notes. As originally enacted, this section referred to the Home Owners' Loan Corporation. However, Re-

org. Plan No. 3 of 1947, effective July 27, 1947, 12 Fed. Reg. 4981, 61 Stat. 208, consolidated the Home Owners' Loan Corporation with other agencies into the Housing and Home Finance Agency.

19-8-110. Farm credit obligations as security.

It shall be lawful for any person, firm, or corporation required by law to maintain a cash deposit as public security, or in lieu thereof to file a bond of approved security in favor of the State of Arkansas, to deposit with the officer of the State of Arkansas designated as the custodian of funds, in lieu of a cash deposit, an amount of notes, bonds, debentures, or other similar obligations issued by the Federal Land Banks, Federal Intermediate Credit Banks, or Banks for Cooperatives, or any other obligations issued pursuant to the provisions of an act of Congress of

the United States known as the Farm Credit Act of 1971, and acts amendatory thereto, which at the market value thereof shall equal or be in excess of the amount required as cash deposit.

History. Acts 1921, No. 465, § 2; Pope's 1971, referred to in this section, is codified as 12 U.S.C. §§ 2001 et seq., 2151 et seq., Dig., § 788; Acts 1975, No. 216, § 1; A.S.A. 1947, § 13-808. and 2205 et seq.

U.S. Code. The Farm Credit Act of

19-8-111. Additional authority for investment of public funds.

(a) Notwithstanding any law to the contrary, including, but not limited to, §§ 19-8-103 and 19-8-105, the state or local government and any trusts created under the Local Government Joint Investment Trust Act, § 19-8-301 et seq., may invest public funds through an eligible bank under § 19-8-105 if:

(1) The bank arranges for the deposit of all or a portion of the funds in certificates of deposit in one (1) or more banks or savings and loan associations located within the United States for the account of the state or local government or trust;

(2) Each certificate of deposit is insured by the Federal Deposit Insurance Corporation for one hundred percent (100%) of the principal and accrued interest of the certificate of deposit;

(3) The bank acts as custodian of the certificates of deposit issued for the account of the state or local government or trust and, as custodian, is charged with the care of the certificates of deposit and their segregation in appropriate records reflecting the total principal amount of the certificates of deposit for each custodial account; and

(4) At the time the funds are deposited and the certificates of deposit are issued, the bank receives an amount of deposits from customers of other financial institutions located in the United States that is equal to or greater than the amount of the funds invested by the state or local government or trust.

(b) For any investment of public funds under this section, the provisions of §§ 19-8-106 and 19-8-107 apply only to the eligible bank selected under subsection (a) of this section.

(c) Additional security shall not be required for investments of public funds under this section.

(d) As used in this section, "local government" means any city, county, town, or other political subdivision of the State of Arkansas, including, but not limited to, any:

(1) School district or community college district;

(2) Improvement or other taxing or assessing district;

(3) Department, instrumentality, or agency of any city, county, or other political subdivision, including, but not limited to, any local fire and police pension or relief funds; and

(4) Local government association as defined in § 19-8-303.

History. Acts 2005, No. 86, § 1.

SUBCHAPTER 2 — SECURITIES FOR DEPOSITS

SECTION.	SECTION.
19-8-201. Legislative intent and construction.	19-8-202. Definition.
	19-8-203. Eligible security for deposits.

Publisher’s Notes. Section 19-3-207 et seq. supersedes § 19-8-101 et seq. and this subchapter with respect to state funds only.

Effective Dates. Acts 1975, No. 373, § 6: Mar. 10, 1975. Emergency clause provided: “It is hereby found and determined by the General Assembly that the existing law specifying which securities are acceptable as security for deposit of public funds

is unclear, and that such condition has meant and will continue to mean great loss to the public of the State of Arkansas unless revised and clarified immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

19-8-201. Legislative intent and construction.

The law specifying what securities may be accepted as security for the deposit of public funds of the State of Arkansas or any political subdivision of the state is inadequate in that it is unduly restrictive on the types of securities which may be accepted. The types of securities which may be accepted as security for deposits of public funds is in need of being expanded, and this subchapter is supplementary to and does not repeal any existing law which specifies certain securities which may be accepted as security for deposit of public funds. To that end, this subchapter is declared to be remedial and should be liberally construed.

History. Acts 1975, No. 373, § 1; A.S.A. 1947, § 13-809.

19-8-202. Definition.

As used in this subchapter, “public funds” means, but shall not be limited to, funds of:

- (1) The State of Arkansas, or any agency, department, board, commission, or instrumentality thereof;
- (2) Any political subdivision of the State of Arkansas, or any agency thereof;
- (3) Any school board or school district;
- (4) Any improvement or other taxing or assessing district; and
- (5) Any public corporation or authority created by or recognized by the State of Arkansas, or any political subdivision thereof.

History. Acts 1975, No. 373, § 2; A.S.A. 1947, § 13-810.

19-8-203. Eligible security for deposits.

(a) Whenever, pursuant to any statute of the state, any depository in the State of Arkansas must furnish security for the deposit of any public funds or whenever any security must be granted to any public official in connection with public funds the following shall be considered as eligible security for such purposes and subject to the depositor's discretion regarding the suitability of the collateral:

(1) The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;

(2) A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

(i) A.M. Best Company, Inc.;

(ii) Standard & Poor's Insurance Rating Service;

(iii) Moody's Investors Service, Inc.; or

(iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;

(3) Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

(i) A.M. Best Company, Inc.;

(ii) Standard & Poor's Insurance Rating Service;

(iii) Moody's Investors Service, Inc.; or

(iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties; or

(4) An irrevocable standby letter of credit issued by a Federal Home Loan Bank.

(b) The aggregate market value of assets pledged or escrowed or the face amount of the surety bond, private deposit insurance, or letter of credit securing the deposit of funds by any single depositor must be equal to or exceed the amount of the deposit to be secured.

(c) Notwithstanding subdivision (a)(1) of this section, if any political subdivision, school district, improvement district, or other issuer has defaulted on any bonds or other obligations within the preceding period of ten (10) years, bonds or other obligations of the defaulting political subdivision, school district, improvement district, or other issuer shall not be eligible as security for the deposit of public funds or as security required to be deposited in connection with public funds.

History. Acts 1975, No. 373, § 3; A.S.A. 1947, § 13-811; Acts 2001, No. 310, § 1.

Cross References. Securing of deposits, § 23-47-203.

SUBCHAPTER 3 — LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT

SECTION.

- 19-8-301. Title.
 19-8-302. Purpose.
 19-8-303. Definitions.
 19-8-304. Creation of trusts.
 19-8-305. Terms of trust agreement.
 19-8-306. Filing of trust agreement and supplements thereto.
 19-8-307. Common trust funds — Individual investment accounts.

SECTION.

- 19-8-308. Authorized common trust fund investments.
 19-8-309. Power to own property and contract.
 19-8-310. Records.
 19-8-311. Direct deposits by the State of Arkansas into local government cash management trust account.

A.C.R.C. Notes. References to “this subchapter” in §§ 19-8-301 — 19-8-310 may not apply to § 19-8-311, which was enacted subsequently.

Effective Dates. Acts 1993, No. 583, § 14; Mar. 18, 1993. Emergency clause provided: “It is hereby found and determined by the General Assembly that there is currently no authority for local governments to invest in common trust fund

units of public trusts, and that such authority would make it possible for local governments to invest their cash balances more efficiently and earn greater investment returns. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

19-8-301. Title.

This subchapter may be cited as the “Local Government Joint Investment Trust Act”.

History. Acts 1993, No. 583, § 1.

19-8-302. Purpose.

The purpose of this subchapter is to permit local governments in Arkansas to join together to establish trusts for joint investment of moneys not currently needed so as to enhance their investment opportunities and increase investment earnings. This subchapter shall be deemed to provide an additional and alternative method of investment for local governments. It is supplemental to existing investment authority.

History. Acts 1993, No. 583, § 2.

19-8-303. Definitions.

For purposes of this subchapter:

(1) “Local government” shall mean:

(A) Any city, county, school district, or community college district of this state;

(B) Any department, instrumentality, or agency of these entities, including local fire and police pension and relief funds; and

(C) Any department, instrumentality, or agency of these entities, including a local government association;

(2) "Local government association" shall mean the Arkansas Municipal League, the Association of Arkansas Counties, the Arkansas School Boards Association, or any similar organization whose membership is composed of local governments or their elected officials;

(3) "Participant" shall mean a local government which is a party to a trust agreement;

(4) "Private agency" shall mean any individual or any form of business organization authorized under the laws of this or any other state; and

(5) "Trust agreement" shall mean the agreement, indenture, or other instrument creating a trust pursuant to this subchapter, together with any supplements thereto.

History. Acts 1993, No. 583, § 3; 1995, No. 615, § 5.

19-8-304. Creation of trusts.

(a) Any ten (10) or more local governments may create a trust under this subchapter for the purpose of providing for the joint investment of moneys not currently needed by the local governments creating the trust and by other local governments which become parties to the trust.

(b) Each trust shall be created by trust agreement.

(c) Appropriate action by ordinance, resolution, or otherwise pursuant to law of its governing body shall be necessary for any local government to become a party to a trust agreement.

History. Acts 1993, No. 583, § 4.

19-8-305. Terms of trust agreement.

(a) Each trust agreement shall specify the following:

(1) Its duration;

(2)(A) The number, qualifications, method of election, and terms of the trustees who shall serve as the governing body of the trust.

(B)(i) Each trust shall have a minimum of seven (7) trustees.

(ii) Only full-time employees of a participant or of a local government association may serve as trustees.

(iii) A majority of the trustees must be employees of participants.

(C)(i) Each trustee shall be elected by the participants for a term of not to exceed three (3) years.

(ii) The terms of office shall be staggered so that at least one-third ($\frac{1}{3}$) of the trustees are elected each year.

(D) Each participant shall be entitled to one (1) vote in each election of trustees;

(3) The qualifications, terms, and conditions necessary for additional local governments to become parties to the trust;

(4) The terms and conditions under which local governments may withdraw as parties to the trust; provided, that any party shall have the unconditional right to withdraw upon not more than ninety (90) days' notice;

(5) The permissible methods for acquiring, holding, and disposing of real and personal property used in the operation of the trust;

(6) The maximum amount of funds of participants the trust may accept for investment;

(7) The permissible methods to be employed in accomplishing the partial or complete termination of the trust and for disposing of property upon the partial or complete termination;

(8) The terms and conditions under which the trust agreement may be amended and supplemented; and

(9) Any other necessary and proper matters.

(b) Each addition of a local government as a party to a trust, each withdrawal of a local government as a party to a trust, and each amendment or supplement to a trust agreement shall be evidenced by a written supplement to the trust agreement.

History. Acts 1993, No. 583, § 5.

19-8-306. Filing of trust agreement and supplements thereto.

No trust agreement or supplement to a trust agreement shall be effective until it is filed with the Secretary of State.

History. Acts 1993, No. 583, § 6.

19-8-307. Common trust funds — Individual investment accounts.

(a) Each trust created pursuant to this subchapter shall establish one (1) or more common trust funds. Moneys held for the credit of a common trust fund shall be invested only in authorized common trust fund investments.

(b) Assets held for the credit of a common trust fund shall be divided into units of participation, and each participant who invests in the common trust fund shall be the owner of such units in proportion to the amount of its investment. Such units shall be authorized investments for participants.

(c) If authorized by its trust agreement, and notwithstanding any other provision of state law, a trust may also act as trustee of individual investment accounts of participants. Moneys held for the credit of an individual investment account shall be invested only in obligations which are, at the time of investment, authorized investments for the participant under applicable law, excluding this subchapter.

History. Acts 1993, No. 583, § 7.

19-8-308. Authorized common trust fund investments.

A trust created pursuant to this subchapter shall invest moneys held for the credit of a common trust fund only in the following authorized investments:

(1) Direct obligations of, or obligations on which the timely payment of principal of and interest on is fully guaranteed by, any agency or instrumentality of the United States;

(2) Certificates of deposit or time deposits of a bank or savings and loan whose principal office is located in the State of Arkansas, to the extent that such deposits and the interest thereon are either:

(A) Insured by the Federal Deposit Insurance Corporation; or

(B)(i) Secured by a perfected first security interest in collateral consisting of obligations of the type described in subdivision (1) or (2) of this section, and having a fair market value equal to not less than one hundred ten percent (110%) of the amount secured.

(ii) The collateral securing the deposit must be held by the trust or by an independent third party acting solely as agent for the trust, the collateral must be held free of any lien or claim by a third party, other than a party acting as agent for the trust, and the securities must be held pursuant to an agreement providing that the trust will value the collateral no less frequently than monthly and will liquidate the collateral if any deficiency in its required market value is not restored within two (2) business days of such valuation; and

(3) Securities of the type described in subdivision (1) or (2) of this section purchased under agreements to resell such securities, provided:

(A) A specific written repurchase agreement governs the transaction;

(B) The securities are held by the trust or an independent third party acting solely as agent for the trust;

(C) The securities are held free and clear of any lien or claim by a third party, other than a party acting as agent for the trust;

(D) The trust is the holder of a perfected first security interest in the securities;

(E) The fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least one hundred two percent (102%); and

(F) The repurchase agreement provides that the trust will value the securities no less frequently than monthly and will liquidate the securities if any deficiency in their required market value is not restored within two (2) business days of such valuation.

History. Acts 1993, No. 583, § 8.

19-8-309. Power to own property and contract.

(a) A trust created under this subchapter shall, subject to any limitations in the trust agreement, have power to own real and personal property necessary to carry out its functions and to contract with local

government associations and private agencies for necessary services in carrying out its functions.

(b) Without limiting the generality of the foregoing, a trust may be authorized to employ an investment advisor, a trust administrator, a custodian of investments, and a person or firm to market trust investment programs.

History. Acts 1993, No. 583, § 9.

19-8-310. Records.

(a) Each trust shall cause proper books of account and records to be kept in which complete and correct entries shall be made of all transactions relating to its operations.

(b) Such books shall be available for inspection by each participant at reasonable times.

(c) Each trust shall have the records audited by the Legislative Joint Auditing Committee or by a certified public accountant once each year.

(d) A copy of the audit shall be furnished to each participant and a copy shall be filed with the Secretary of State.

History. Acts 1993, No. 583, § 10.

19-8-311. Direct deposits by the State of Arkansas into local government cash management trust account.

(a) Notwithstanding any other provision of law, the following funds remitted to municipalities by the State of Arkansas may be deposited directly into a municipality's Arkansas local government cash management trust account, established pursuant to the Local Government Joint Investment Trust Act, § 19-8-301 et seq.:

(1) The Municipal Aid Fund, as described in § 19-5-601;

(2) The special highway revenues made available by the Arkansas Highway Revenue Distribution Law, § 27-70-201; and

(3) The special revenues listed in the Revenue Classification Law, § 19-6-201, including, but not limited to, those generated by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(b)(1) Upon receipt of a resolution enacted by the governing body of a municipality, the officials responsible for the transmittal of funds to the municipality shall directly deposit the funds into the municipality's local government cash management trust account.

(2) The resolution shall state the following:

(A) The name of the municipality;

(B) The funds to be transmitted; and

(C) The municipality's local government cash management trust account number.

(c)(1) Direct deposits as provided in this section shall continue to be made until the state official or officials responsible for transmitting the funds receive a copy of a resolution enacted by the governing body of the municipality requesting the termination of the deposits.

(2) Upon receipt, the funds shall be transmitted as provided by this section.

History. Acts 2003, No. 329, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 19-8-301 — 19-8-310 may not apply to this section, which was enacted subsequently.

Cross References. Arkansas Gross

Receipts Act of 1941, § 26-52-101 et seq.

Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

Municipal Aid Fund, § 19-5-601 et seq.

Revenue Classification Law, § 19-6-201 et seq.

CHAPTER 9

PUBLIC OBLIGATIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE OBLIGATIONS.
3. REFUNDING BONDS.
4. REGISTRATION.
5. REVENUE BOND REPORTING.
6. REVENUE BOND ACT OF 1987.
7. TAXABLE BOND ACT OF 1989.

RESEARCH REFERENCES

Am. Jur. 72 Am. Jur. 2d, States, § 78 et seq.

C.J.S. 81A C.J.S., States, § 250 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-9-101. Form of bonds that may be issued.
- 19-9-102. Replacement of lost, destroyed, or stolen bonds.

SECTION.

- 19-9-103. Paying agents to remit funds after three years.
- 19-9-104. Bonds held five years.
- 19-9-105. Pay until barred.

Cross References. Election required for issuance of bonds by state, except for refunding bonds, Ark. Const. Amend. No. 20.

Local Government Bond Act of 1985, § 14-164-301 et seq.

Preambles. Acts 1941, No. 350 contained a preamble which read: “Whereas, the refinancing of public bond issues at reduced interest rates, or redeeming such bonds, is sometimes delayed or prevented by reason of the fact that some of the bonds have become lost, mislaid, destroyed, or stolen and there is no existing law in Arkansas providing for the issuance of replacement bonds in such cases

as in many States”

Effective Dates. Acts 1941, No. 113, § 7: Mar. 3, 1941. Emergency clause provided: “In view of the fact that in all bond refunding negotiations certain bonds are misplaced by their owners and never presented for retirement after being called in and the paying agents retain said funds indefinitely to the detriment of the State of Arkansas and its political subdivisions, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval.”

Acts 1941, No. 350, § 2: effective on passage.

Acts 1965, No. 494, § 4: Mar. 20, 1965. Emergency clause provided: "It has been found that certain of the purchasers of bonds issued by the State, its boards, commissions and agencies, and by counties, municipalities and improvement districts require the bondholders to have the registrable options, as in this act provided, and that if these options are made

available, it will enable the issuing authorities to dispose of their bonds upon more favorable terms, and inasmuch as there is an immediate need for the issuing authorities to have the benefits of this act, it is hereby declared that an emergency exists, and this act, being necessary for the immediate preservation of the public peace, health and safety, shall be in force and take effect from and after its passage and approval."

19-9-101. Form of bonds that may be issued.

(a) In the case of authorizations under any existing law for the State of Arkansas, any board, commission, or agency of the State of Arkansas, any county, any municipality, or any improvement district to issue bonds or coupon bonds, the authorization shall be deemed to, and is extended to, include the authority to issue bonds that may be either coupon bonds, payable to bearer, or may be registrable as to principal only with interest coupons, or may be registrable as to both principal and interest without coupons. These bonds may be exchanged for bonds of another denomination, which bonds of another denomination may in turn be either coupon bonds payable to bearer or coupon bonds registrable as to principal only, or bonds registrable as to both principal and interest without coupons, as the governing body shall determine.

(b) As used in this section, unless the context otherwise requires:

(1) "Improvement district" means all improvement districts, drainage districts, levee districts, and other special districts formed for the purpose of constructing or maintaining a local improvement to be financed by the assessment of benefits upon the real property in the district and the levy of a tax on those assessed benefits;

(2) "Municipality" means any city of the first or second class or any incorporated town; and

(3) "Governing body" means the board of commissioners, city council, county court, board of trustees, or other person or body given the power and duty by the state under existing law to issue bonds by the state, any board, commission, or agency of the state, any county, any municipality, or any improvement district.

(c) This section is to be liberally construed, and the authority set forth in it is cumulative and supplemental to all other provisions of law authorizing the issuance of registrable bonds.

History. Acts 1965, No. 494, §§ 1-3; A.S.A. 1947, §§ 13-1011 — 13-1013.

19-9-102. Replacement of lost, destroyed, or stolen bonds.

(a) In cases where any valid bond, note, interest coupon, or evidence of indebtedness, hereinafter called "instrument," issued by the State of Arkansas, or any of its departments, agencies, or political subdivisions, including, but not limited to, school districts and improvement districts of all kinds, becomes lost, mislaid, destroyed, or stolen, the body which issued the instrument, or its successor, shall issue and deliver to the one owning the right, title, and interest to and in the instrument a replacement instrument, but only on the filing with the body of:

(1) An affidavit reciting ownership of all right, title, or interest in and to the lost, mislaid, destroyed, or stolen instrument and giving its name, the name of the board, commission, or body which issued it, the date of maturity, the denomination and number and that of any lost, mislaid, destroyed, or stolen interest coupon appertaining thereto, and briefly describing the circumstance of such loss, mislaying, destruction, or theft; and

(2) A bond in double the face amount of such replacement, including any interest coupons affixed thereto, with a surety company licensed to do business in Arkansas as surety thereon, conditioned that if the principal, the heirs, legal representatives, successors, or assigns of the principal, or any of them, shall, in case the instrument so lost, mislaid, destroyed, or stolen be found or come into the hands or power of any of them, or into the hands, custody, or power of any other person, deliver, or cause it to be delivered unto the obligor for cancellation, and shall also at all times indemnify and save harmless the obligor from and against any and all loss, claims, actions, suits, damages, charges, or expenses of any nature and character by reason of the lost, mislaid, destroyed, or stolen instrument, or the issuance of a replacement in lieu thereof, or the paying or crediting as prescribed of the face amount of the lost, mislaid, destroyed, or stolen instrument without the surrender thereof, then the obligation shall be void, otherwise to remain in full force and effect.

(b) Nothing in this section shall be construed to limit or abridge any defense which the obligor may have against the lost, mislaid, destroyed, or stolen instrument; nor shall anything in this section waive any provision of any statute of limitations.

History. Acts 1941, No. 350, § 1; A.S.A. 1947, § 13-1001.

19-9-103. Paying agents to remit funds after three years.

(a) Paying agents, with whom the state or any political subdivision of the state has deposited or shall deposit funds for the payment of obligations of the state or of any political subdivision of the state, are required to remit to the Treasurer of State all such funds which have been in their hands for a period of three (3) years.

(b) The Treasurer of State shall invest these funds from paying agents in government or state bonds which he or she shall hold in trust

for the holders of the obligations for the payment of which the funds were deposited with the paying agents.

(c) On the presentation to the Treasurer of State of any valid obligation that was payable out of any fund remitted to him or her by a paying agent, the Treasurer of State shall sell the bonds purchased with such fund and redeem the obligation.

History. Acts 1941, No. 113, §§ 1-3;
A.S.A. 1947, §§ 13-1004 — 13-1006.

19-9-104. Bonds held five years.

After holding any government or state bond purchased by him or her for a period of five (5) years, the Treasurer of State shall liquidate the bond and place the proceeds to the credit of the General Revenue Fund Account of the State Apportionment Fund, or remit them to the political subdivision of the state to which they belong, as the case may be.

History. Acts 1941, No. 113, § 4; A.S.A.
1947, § 13-1007.

19-9-105. Pay until barred.

Every bond issued by the state, or by any political subdivision thereof, shall be paid by the state or by the political subdivision unless it is barred by the statute of limitations.

History. Acts 1941, No. 113, § 5; A.S.A.
1947, § 13-1008.

SUBCHAPTER 2 — STATE OBLIGATIONS

SECTION.	SECTION.
19-9-201. Authority of State Board of Finance.	19-9-204. Retirement of bonds before maturity.
19-9-202. Authorized paying agents.	19-9-205. Cancelled obligations.
19-9-203. Registration.	

Effective Dates. Acts 1955, No. 338, § 15: Apr. 1, 1955. Emergency clause provided: "It has been found and is hereby declared by the General Assembly that general revenues of the State are declining and that the investment provisions of this act will provide additional revenues

immediately needed for the efficient operation of the State Government. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after April 1, 1955."

19-9-201. Authority of State Board of Finance.

The State Board of Finance is authorized to:

(1) Take such action as may be provided by law for the issuance of refunding bonds for outstanding obligations to the State of Arkansas;

(2) Issue replacement bonds, either typewritten, printed, or lithographed, for lost, mislaid, destroyed, or stolen bonds of the State of Arkansas in the manner and within the limitations provided by § 19-9-102;

(3) Take such action as may appear necessary or desirable to collect any funds which may have been in the hands of paying agents for a period of three (3) years or longer and to invest any funds so collected in the manner provided by §§ 19-9-103 — 19-9-105; and

(4) Take such other action, not inconsistent with law, as may appear necessary or desirable to:

(A) Retire the direct bonded debt of the State of Arkansas in an orderly manner;

(B) Safeguard state funds pledged for the payment of such obligations; and

(C) Maintain and improve the credit standing of the State of Arkansas.

History. Acts 1955, No. 338, § 11; 1965 (1st Ex. Sess.), No. 12, § 13; A.S.A. 1947, § 13-411.

19-9-202. Authorized paying agents.

(a) The agents of the state for payment of the maturing principal of, and interest on, its direct obligation bonds, irrespective of any other legislation on the subject, shall be for all obligations a bank located in this state, to be designated by the State Board of Finance.

(b) Fees of the paying agents shall be as follows:

(1) For payment of interest, one-fourth of one percent ($\frac{1}{4}$ of 1%) of the total amount paid;

(2) For payment of principal of each maturity, the aggregate thereof to be calculated as follows, with each paying agent to receive its respective proportion based upon the amount paid by it: one-tenth of one percent ($\frac{1}{10}$ of 1%) on the first one hundred thousand dollars (\$100,000) paid, one-twentieth of one percent ($\frac{1}{20}$ of 1%) on the next nine hundred thousand dollars (\$900,000) paid, one-thirtieth of one percent ($\frac{1}{30}$ of 1%) on the next four million dollars (\$4,000,000) paid, and one-fortieth of one percent ($\frac{1}{40}$ of 1%) on all amounts paid in excess of five million dollars (\$5,000,000).

(c) In the event any agent so designated shall refuse to accept the paying agency or in the event any agent accepting this designation shall thereafter resign or fail to furnish service satisfactory to the board, the board shall name another commercial bank as successor thereto.

(d) Paying agents shall render monthly statements of account to, and in such form as shall be required by, the Treasurer of State. With those monthly statements, the paying agent shall transmit all paid and cancelled obligations.

History. Acts 1955, No. 338, § 9; A.S.A. 1947, § 13-409; Acts 1997, No. 296, § 1.

A.C.R.C. Notes. Formerly, the initial provisions of this section provided that the agents of the state for payment of the maturing principal of, and interest on, its direct obligation bonds, irrespective of any other legislation on the subject, shall be as follows:

(a) For State Highway Refunding Bonds, authorized and issued under the provisions of Act 4 (Appx. 3 to this title), approved January 28, 1941: The Chase National Bank of the City of New York; Halsey Stuart and Company, Incorpo-

rated, Chicago, Illinois; Mercantile Trust Company, St. Louis, Missouri; a bank located in Memphis, Tennessee, to be designated by the State Board of Finance; and a bank located in the capital city of this state, to be designated by the board;

(b) For State Highway Construction Bonds, authorized and issued under the provisions of Act 5 (Appx. 5 of this title), approved January 20, 1949: a bank located in Memphis, Tennessee, to be designated by the board; and a bank located in the capital city of this state, to be designated by the board.

19-9-203. Registration.

The Treasurer of State is designated as the official registrar of all direct obligation bonds of this state. Upon the application of the holder of any such obligations, the Treasurer of State shall register them as to principal only or as to both principal and interest. Thereafter, upon similar application, he or she shall discharge such obligations from registration.

History. Acts 1955, No. 338, § 10; A.S.A. 1947, § 13-410.

19-9-204. Retirement of bonds before maturity.

(a) Whenever appropriations and funds are available, the State Board of Finance is authorized and empowered to purchase direct obligations of this state in advance of maturity for the purpose of retirement under the procedure set forth in this subchapter.

(b) All obligations purchased as prescribed, and the unmaturing interest coupons attached thereto, shall be cancelled by perforation.

History. Acts 1955, No. 338, § 8; A.S.A. 1947, § 13-408.

19-9-205. Cancelled obligations.

The Treasurer of State shall classify and record all paid and cancelled state obligations and, from time to time as directed by the State Board of Finance, destroy these obligations by burning them to ashes after preparing for execution certificates of incineration, which shall set forth a detailed description thereof.

History. Acts 1955, No. 338, § 9; A.S.A. 1947, § 13-409.

SUBCHAPTER 3 — REFUNDING BONDS

SECTION.

- 19-9-301. Delivery and deposit in trust.
 19-9-302. Sale when old bonds cannot be presented.
 19-9-303. Private sale to United States.

SECTION.

- 19-9-304. Interest rate.
 19-9-305. Conversion privilege.
 19-9-306. Inclusion of redemption premiums in principal.

Preambles. Acts 1961, No. 449 contained a preamble which read: "Whereas, many of the laws permitting the refunding of bonds issued by counties, school districts, improvement districts, and municipalities carry the restriction that the refunding bonds shall not bear a greater rate of interest than that borne by the bonds to be refunded, but many of such bonds presently outstanding were issued at a time of unusually low interest rates so that they cannot now be refunded at the same rate they bear; and

"Whereas, frequently at the time of issuance of presently outstanding bonds the issuing authority pledged its entire available resources for their payment and now has no free resources to pledge for additional bonds, but if able to refund the outstanding bonds it could combine such refunding bonds with new bonds to secure funds for the needed improvements or facilities; and

"Whereas, the increase in urban and suburban population and in industry and commerce in many instances has created urgent needs for additional governmental facilities and services of all kinds; and

"Whereas, the increases in assessed valuation of taxable property, and the increased consumption and use of such governmental facilities and services, produce sufficient revenues to meet these needs if the additional revenues can be released; Now therefore ... "

Effective Dates. Acts 1939, No. 152, § 2: approved Feb. 28, 1939. Emergency clause provided: "Whereas, the State of Arkansas and various boards, commissions, other agencies and instrumentalities of the State of Arkansas have outstanding bonds which will default unless refunded in the immediate future; and whereas, there is a possibility that the opportunity to sell such bonds to the United States of America, or to some agency, corporation, or instrumentality

thereof may soon terminate; and whereas, the United States of America, or any agency, corporation, or instrumentality thereof will not buy bonds of any kind at public sale; now, therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health and safety, shall be in force and effect from and after its passage."

Acts 1945, No. 12, § 3: approved Jan. 31, 1945. Emergency clause provided: "It has been found and it is hereby determined by the General Assembly that some of the political subdivisions of the State above named are paying interest rates on their outstanding bonds higher than those at which they might be refunded; that unprecedentedly low interest rates now prevail which have created a market advantageous to the issuance of refunding bonds; that the duration of said low interest rates is uncertain for the reason that Congress may shortly enact a statute taxing the interest upon future issues of such bonds which would render the refunding of the outstanding bonds impracticable, if not impossible; that such political subdivisions should take advantage of the present favorable market and their failure to do so would result in great financial detriment to taxpayers; that under present laws refunding bonds cannot be delivered until the bonds they are to refund are available for payment and cancellation simultaneously with the delivery of the refunding bonds; that it often happens that some callable bonds and some bonds with fixed maturities are not presented for payment at the call date or maturity date respectively or within a reasonable time thereafter; that because of such uncertainty in the delivery date bond buyers usually will not contract for the purchase of the refunding bonds at advantageous interest rates; that for said reasons it is hereby declared necessary for

the preservation of the public peace, health and safety that this act shall become effective without delay. An emergency therefore exists and this act shall take effect and be in force from and after its passage.”

Acts 1961, No. 449, § 4: Mar. 15, 1961. Emergency clause provided: “That it is hereby ascertained and declared that there is a real and urgent need for many of the State’s counties, school districts, improvement districts, and municipalities to issue additional bonds in order to meet the increasing needs for public services, an emergency is therefore declared to exist, and this act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval.”

Acts 1967, No. 145, § 3: Feb. 24, 1967. Emergency clause provided: “It is hereby ascertained and declared that it is and will be in the best interest of many of issuing authorities to refund outstanding bonded indebtedness in order to accomplish a savings and in order to permit the issuance of additional bonds to meet the increasing needs for public services and that this act is necessary for issuing authorities to accomplish those public purposes. It is, therefore, declared that an emergency exists and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval.”

Acts 1967, No. 146, § 3: Feb. 24, 1967. Emergency clause provided: “It is hereby found and declared that certain outstanding bond issues of issuing authorities are subject to redemption prior to maturity only upon the payment of redemption premiums; that uncertainty exists as to whether issuing authorities can include the required redemption premiums as part of the principal of the refunding bonds; that this uncertainty must be eliminated since the refunding cannot be

accomplished without the payment of the required premiums; and that the purpose of this act is to expressly grant the authority to include the necessary redemption premiums in the principal amount of the refunding bonds so that issuing authorities can proceed with the issuance of refunding bonds when refunding is determined to be in the best interest of the issuing authorities. It is, therefore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace, health, safety and welfare shall be in force and take effect from and after its passage and approval.”

Acts 1973, No. 502, § 3: Mar. 29, 1973. Emergency clause provided: “It is hereby ascertained and declared that there is an urgent necessity to clarify existing law concerning the advance refunding of bonds of issuing authorities so as to expressly permit issuing authorities to have the benefit of income that can be earned from investments in direct obligations of the United States of America in connection with advance refunding. It is, therefore, declared that an emergency exists and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval.”

Acts 1975, No. 222, § 3: became law without Governor’s signature, Feb. 19, 1975. Emergency clause provided: “It is hereby ascertained and declared that there is an urgent necessity to broaden the existing authority of issuing authorities to permit issuing authorities more flexibility in taking advantage of improved bond market conditions to refinance existing indebtedness and realize interest savings thereby, as provided in this Act. It is, therefore, declared that an emergency exists and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval.”

19-9-301. Delivery and deposit in trust.

(a) When refunding bonds are issued by the state, any county, municipality, school district, state-supported educational institution, improvement district of any kind, agency, or political subdivision, which

may be called "issuing authorities", the bonds may either be sold or delivered in exchange for the outstanding obligations being refunded. If sold, the proceeds may be either applied to the payment of the outstanding obligations or deposited into trust for the retirement of the obligations, either at maturity or upon any authorized redemption date as specified in the ordinance, resolution, order, or other instrument authorizing the issuance of the refunding bonds.

(b) The bonds may be issued in the principal amount necessary to pay the principal of, interest on, redemption premiums, if any, trustee's and paying agent's fees, and charges in connection with the obligations being refunded to maturity or to the redemption date specified in the instrument authorizing the issuance of the refunding bonds, these items to be called "total debt service requirements of the obligations being refunded"; to pay expenses incidental thereto; and to pay the expenses of authorizing and issuing the refunding bonds.

(c)(1) The bonds may be delivered when moneys or investment securities or a combination thereof, sufficient to meet, as and when due, the total debt service requirements of the obligations being refunded, have been irrevocably deposited into trust with a bank or trust company organized under the laws of the United States or any state thereof. This bank or trust company shall be qualified to receive trust funds pursuant to a trust agreement requiring the bank or trust company to apply the trust funds to the payment, as and when due, of total debt service requirements of the obligations being refunded. If the bank or trust company is not the paying agent for the obligations being refunded, the trust agreement shall require it to pay over trust moneys to the paying agent as and when required for the timely meeting of total debt service requirements of the obligations being refunded.

(2) "Investment securities" shall mean direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States, maturing and bearing interest at such times and in such amounts as, together with uninvested trust moneys, will make available sufficient moneys to meet, as and when due, total debt service requirements of the obligations being refunded. In determining the sufficiency of the trust deposit, there shall be considered the principal amount of such investment securities and the interest to be earned on them.

History. Acts 1967, No. 145, § 1; 1973, No. 502, § 1; 1975, No. 222, § 1; A.S.A. 1947, § 13-1105.

19-9-302. Sale when old bonds cannot be presented.

(a) Where refunding bonds are to be issued by any municipality, county, state-supported educational institution, or improvement district of any kind and the bonds to be refunded cannot be presented for payment and cancellation simultaneously with the payment and delivery of the refunding bonds, the refunding bonds may be delivered when

the purchase money is deposited into trust. The purchase money may be deposited for the purpose of payment of the principal of and interest on the bonds to be refunded with any insured bank or trust company in the state which is otherwise fully qualified to receive trust funds if the bonds to be refunded have fixed maturity dates of not to exceed twelve (12) months from the date of the payment and delivery of the refunding bonds or if the bonds are redeemable before maturity and have been duly called for payment.

(b) If the bank or trust company is not the paying agent for the bonds to be refunded, the purchase money shall be paid over by it to the paying agent three (3) days before the maturity of the bonds or three (3) days before the date for which the bonds have been called for payment.

History. Acts 1945, No. 12, § 1; A.S.A. 1947, § 13-1102.

19-9-303. Private sale to United States.

Any refunding bonds authorized to be sold by the State of Arkansas or any agency or instrumentality of the state at public sale, notwithstanding the provision for public sale, may, nevertheless, be sold to the United States or any agency thereof at private sale without public advertisement if the bonds are sold at not less than par and at a rate of interest not greater than the rate borne by the bonds to be refunded.

History. Acts 1939, No. 152, § 1; A.S.A. 1947, § 13-1101.

19-9-304. Interest rate.

(a) Any county, school district, improvement district, or municipality may refund any bonds issued under any statutory or constitutional authority at any time outstanding by the issuance of bonds bearing a rate or rates of interest that the issuer shall deem to be just and fair, whether or not greater than the rate or rates of interest borne by the bonds being refunded.

(b) No bonds shall be refunded at a rate of interest greater than the maximum rate set by the statutes or constitutional provision under which they were originally authorized.

History. Acts 1961, No. 449, § 1; A.S.A. 1947, § 13-1103.

19-9-305. Conversion privilege.

The refunding bonds may be issued with the privilege of conversion to a lower rate or rates of interest if the issuer receives no less and pays no more than it would receive or pay if the bonds were not converted. The conversion shall be subject to the approval of the issuer.

History. Acts 1961, No. 449, § 2; A.S.A. 1947, § 13-1104.

19-9-306. Inclusion of redemption premiums in principal.

The State of Arkansas, any agency of the state, any county, any municipality, any school district, any improvement district of any kind, or any other political subdivision of the State of Arkansas, which may be called "issuing authorities", is authorized to include in the principal of refunding bonds the amount of any redemption premiums required to be paid to accomplish the redemption of the bonds being refunded.

History. Acts 1967, No. 146, § 1; A.S.A. 1947, § 13-1106.

A.C.R.C. Notes. Acts 1967, No. 146, § 2, provided that the act would be cumu-

lative to any other laws authorizing or pertaining to the issuance of refunding bonds by issuing authorities.

SUBCHAPTER 4 — REGISTRATION

SECTION.

- 19-9-401. Title.
- 19-9-402. Purpose.
- 19-9-403. Definitions.
- 19-9-404. Applicability.
- 19-9-405. Construction.
- 19-9-406. System of registration.
- 19-9-407. Signatures required.
- 19-9-408. Signature of predecessor in office.

SECTION.

- 19-9-409. Seal.
- 19-9-410. Appointment of agents by issuer.
- 19-9-411. Payment of costs.
- 19-9-412. Reciprocal recognition for obligations.
- 19-9-413. Registration records.
- 19-9-414. Exemption of interest from taxation.

Effective Dates. Acts 1983, No. 786, § 18: Mar. 24, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that under current federal tax law, Section 103 of the Code will deny exemption from federal income tax on any obligation not issued in registered form, many laws of the State of Arkansas relating to the issuance of obligations do not adequately provide the authorization for compliance and its inci-

dents in an adequate manner; and to enable all issuers within the state to comply, so as to prevent substantial additional financing costs or delays in financing, it is necessary that this Act take effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of public peace, health and safety shall be in full force and effect from and after its passage and approval."

19-9-401. Title.

This subchapter may be cited as the "Registered Public Obligations Act of Arkansas".

History. Acts 1983, No. 786, § 1; A.S.A. 1947, § 13-2801.

19-9-402. Purpose.

(a) The Internal Revenue Code provides that interest with respect to certain obligations may not be exempt from federal income taxation unless the obligations are in registered form. It is therefore a matter of state concern that public entities be authorized to provide for the issuance of obligations in such form. It is a purpose of this subchapter to empower all public entities to establish and maintain a system pursuant to which obligations may be issued in registered form within the meaning of the applicable provisions of the Internal Revenue Code.

(b) Obligations have traditionally been issued in bearer rather than in registered form, and a change from bearer to registered form may affect the relationships, rights, and duties of issuers of and the persons that deal with obligations and, by such effect, the costs of issuing obligations. Such effects will impact the various issuers and varieties of obligations differently depending upon their legal and financial characteristics, their markets, and their adaptability to recent and prospective technological and organizational developments. It is therefore a matter of state concern that public entities be provided flexibility in the development of such systems and control over system incidents so as to accommodate the different impacts. It is a purpose of this subchapter to empower the establishment, maintenance, and amendment, from time to time, of differing systems of registration of obligations so as to accommodate the differing impacts upon issuers and varieties of obligations. It is further a purpose of this subchapter to authorize systems that will facilitate the prompt and accurate transfer of registered public obligations and develop practices with regard to the registration and transfer of registered public obligations.

History. Acts 1983, No. 786, § 3; A.S.A. Code, referred to in this section, is codified as 26 U.S.C. § 1 et seq.
1947, § 13-2803.

U.S. Code. The Internal Revenue

19-9-403. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Authorized officer” means any individual required or permitted, alone or with others, by any provision of law or by the issuing public entity, to execute, on behalf of the public entity, a certificated registered public obligation or a writing relating to an uncertificated registered public obligation;

(2) “Certificated registered public obligation” means a registered public obligation which is represented by an instrument;

(3) “Code” means the Internal Revenue Code of 1954, as amended;

(4) “Facsimile seal” means the reproduction by engraving, imprinting, stamping, or by other means of the seal of the issuer, official, or official body;

(5) “Facsimile signature” means the reproduction by engraving, imprinting, stamping, or by other means of a manual signature;

(6) "Financial intermediary" means a bank, broker, clearing corporation, or other person, or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers, when so acting;

(7) "Issuer" means a public entity which issues an obligation;

(8) "Obligation" means an agreement of a public entity to pay principal and any interest thereon, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement, or otherwise and includes a share, participation, or other interest in any such agreement;

(9) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation;

(10) "Official or official body" means the officer or board that is empowered under the laws of one (1) or more states, including this state, to provide for original issuance of an obligation of the issuer by defining the obligation and its terms, conditions, and other incidents, the successor of any such official or official body, and such other person or group of persons as shall be assigned duties of an official or official body with respect to a registered public obligation under applicable law from time to time;

(11) "Public entity" means any entity, department, or agency which is empowered under the laws of one (1) or more states, territories, possessions of the United States, or the District of Columbia, including this state, to issue obligations, any interest with respect to which, under any provision of law, may be provided an exemption from the income tax referred to in the code. The term "public entity" may thus include, without limitation, this state, an entity deriving powers from and acting pursuant to the Arkansas Constitution or a special legislative act, a political subdivision, a municipal corporation, a state university or college, a school or other special district, a joint agreement entity, a public authority, a public facilities board, a nonprofit corporation, and other organizations;

(12) "Registered public obligation" means an obligation issued by a public entity pursuant to a system of registration;

(13) "State" means the State of Arkansas;

(14) "System of registration" and its variants means a plan that provides:

(A) With respect to a certificated registered public obligation, that:

(i) The certificated registered public obligation specifies a person entitled to the registered public obligation and the rights it represents; and

(ii) Transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(B) With respect to an uncertificated registered public obligation, that:

(i) Books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify

a person entitled to the registered public obligation and the rights evidenced thereby; and

(ii) Transfer of the uncertificated registered public obligation and the rights evidenced thereby be registered upon such book; and

(15) “Uncertificated registered public obligation” means a registered public obligation which is not represented by an instrument.

History. Acts 1983, No. 786, § 2; A.S.A. of 1954, referred to in this section, is 1947, § 13-2802. codified as 26 U.S.C. § 1 et seq.

U.S. Code. The Internal Revenue Code

19-9-404. Applicability.

(a) Unless, at any time prior to or at original issuance of a registered public obligation, the official or official body of the issuer determines otherwise, this subchapter shall be applicable to such registered public obligation, notwithstanding any provision of law to the contrary. When this subchapter is applicable, no contrary provision shall apply.

(b) Nothing in this subchapter limits or prevents the issuance of obligations in any other form or manner authorized by law.

(c) Unless determined otherwise pursuant to subsection (a) of this section, the provisions of this subchapter shall be applicable with respect to obligations which have been approved by vote, referendum, or hearing which authorizes or permits the authorization of obligations in bearer and registered form or in bearer form only. These obligations need not be resubmitted for a further vote, referendum, or hearing for the purpose of authorizing or permitting the authorization of registered public obligations pursuant to this subchapter.

History. Acts 1983, No. 786, § 12; A.S.A. 1947, § 13-2812.

19-9-405. Construction.

(a) This subchapter shall be liberally construed to accomplish the intent and purposes hereof and shall be the sole authority required for the accomplishment of such purposes.

(b) This subchapter shall be construed in conjunction with the Uniform Commercial Code, § 4-1-101 et seq., and the principles of contract law relative to the registration and transfer of obligations.

History. Acts 1983, No. 786, §§ 13, 16; A.S.A. 1947, §§ 13-2813, 13-2815.

19-9-406. System of registration.

(a)(1) Each issuer is authorized to establish and maintain a system of registration with respect to each obligation which it issues. The system may either be:

(A) A system pursuant to which only certificated registered public obligations are issued;

(B) A system pursuant to which only uncertificated registered public obligations are issued; or

(C) A system pursuant to which both certificated and uncertificated registered public obligations are issued.

(2) The issuer may amend, discontinue, and reinstitute any system of registration, from time to time, subject to covenants.

(b) The system shall be established, amended, discontinued, or reinstituted for the issuer by, and shall be maintained for the issuer as provided by, the official or official body.

(c) The system shall be described in the registered public obligation or in the official actions which provide for original issuance of the registered public obligation and in subsequent official actions providing for amendments and other matters from time to time. Such description may be by reference to a program of the issuer which is established by the official or official body.

(d) The system shall define the methods by which transfer of the registered public obligation shall be effective with respect to the issuer and by which payment of principal and any interest shall be made. The system may permit the issuance of registered public obligations in any denomination to represent several registered public obligations of smaller denominations. The system may also provide for the form of any certificated registered public obligation or of any writing relating to an uncertificated registered public obligation, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to holders or owners of obligations, and for accounting, cancelled certificate destruction, registration and release of security interests, and other incidental matters. Unless the issuer otherwise provides, the record date for interest payable on the first or fifteenth day of a month shall be the fifteenth day or the last business day of the preceding month, respectively, and for interest payable on other than the first or fifteenth day of a month, shall be the fifteenth calendar day before the interest payment date.

(e) Under a system pursuant to which both certificated and uncertificated registered public obligations are issued, both types of registered public obligations may be regularly issued, or one (1) type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners. Provision may be made for registration and release of security interest in registered public obligations.

(f) The system may include covenants of the issuer as to amendments, discontinuances, and reinstitutions of the system and the effect of such on the exemption of interest from the income tax provided for by the code.

(g) Whenever an issuer shall issue an uncertificated registered public obligation, the system of registration may provide that a true copy of the official actions of the issuer relating to such uncertificated registered public obligations be maintained by the issuer or by the

person, if any, maintaining such system on behalf of the issuer, so long as the uncertificated registered public obligation remains outstanding and unpaid. A copy of such official actions, verified to be such by an authorized officer, shall be admissible before any court of record, administrative body, or arbitration panel without further authentication.

(h) Nothing in this subchapter shall preclude a conversion from one of the forms of registered public obligations provided for by this subchapter to a form of obligation not provided for by this subchapter if interest on the obligation so converted will continue to be exempt from the income tax provided for by the code.

(i) The rights provided by other laws with respect to obligations in forms not provided for by this subchapter shall, to the extent not inconsistent with this subchapter, apply with respect to registered public obligations issued in forms authorized by this subchapter.

History. Acts 1983, No. 786, § 4; A.S.A. 1947, § 13-2804.

19-9-407. Signatures required.

(a) A certificated registered public obligation shall be executed by the issuer by the manual or facsimile signatures of authorized officers. Any signature of an authorized officer may be attested by the manual or facsimile signature of another authorized officer.

(b) In addition to the signatures referred to in subsection (a) of this section, any certificated registered public obligation or any writing relating to an uncertificated registered public obligation may include a certificate signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent, or the like.

(c) At least one (1) signature of an authorized officer or other person required or permitted to be placed on a certificated registered public obligation shall be a manual signature.

History. Acts 1983, No. 786, § 5; A.S.A. 1947, § 13-2805.

19-9-408. Signature of predecessor in office.

(a) Any certificated registered public obligation signed by the authorized officers at the time of the signing thereof shall remain valid and binding, notwithstanding that before the issuance thereof any or all of the officers shall have ceased to fill their respective offices.

(b)(1) Any authorized officer empowered to sign any certificated registered public obligation may adopt as and for the signature of such officer the signature of a predecessor in office in the event that such predecessor's signature appears on such certificated registered public obligation.

(2) An authorized officer incurs no liability by adoption of a predecessor's signature that would not be incurred by such authorized officer if the signature were that of such authorized officer.

History. Acts 1983, No. 786, § 6; A.S.A. 1947, § 13-2806.

19-9-409. Seal.

When a seal is required or permitted in the execution of any certificated registered public obligation, an authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

History. Acts 1983, No. 786, § 7; A.S.A. 1947, § 13-2807.

19-9-410. Appointment of agents by issuer.

(a) An issuer may appoint for such term as may be agreed, including for so long as a registered public obligation may be outstanding, corporate or other authenticating agents, transfer agents, registrars, and paying or other agents. The issuer may also specify the terms of their appointment, including their rights, their compensation and duties, limits upon their liabilities, and provision for their payment of liquidated damages in the event of breach of certain of the duties imposed. These liquidated damages may be made payable to the issuer, the owner, or a financial intermediary. None of such agents need have an office or do business within this state.

(b) An issuer may agree with custodian banks and financial intermediaries, and nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the transfer of pledge of registered public obligations. Any such custodian banks and financial intermediaries, and nominees, may, if qualified and acting as fiduciaries, also serve as authenticating agents, transfer agents, registrars, or paying or other agents of the issuer with respect to the same issue of registered public obligations.

(c) Nothing shall preclude the issuer from itself performing, either alone or jointly with other issuers, any transfer, registration, authentication, payment, or other function described in this section.

History. Acts 1983, No. 786, § 8; A.S.A. 1947, § 13-2808.

19-9-411. Payment of costs.

(a) An issuer, prior to or at original issuance of registered public obligations, may provide as a part of a system of registration that the transferor or transferee of the registered public obligations pay all or a designated part of the costs of the system as a condition precedent to

transfer, that costs be paid out of proceeds of the registered public obligations, or that both methods be used. The portion of the costs of the system not provided to be paid for by the transferor or transferee or out of proceeds shall be the liability of the issuer.

(b) The issuer may, as a part of a system of registration, provide for reimbursement or for satisfaction of its liability by payment by others. The issuer may:

(1) Enter into agreements with others respecting such reimbursement or payment;

(2) Establish fees and charges pursuant to such agreements or otherwise; and

(3) Provide that the amount or estimated amount of such fees and charges shall be reimbursed or paid from the same sources and by means of the same collection and enforcement procedures and with the same priority and effect as with respect to the obligations.

History. Acts 1983, No. 786, § 9; A.S.A. 1947, § 13-2809.

19-9-412. Reciprocal recognition for obligations.

Obligations issued by public entities under the laws of one (1) or more states, territories, possessions, or the District of Columbia, which are in registered form, whether or not represented by an instrument, and which, except for their form, satisfy the requirements with regard to security for deposits of moneys of public agencies prescribed pursuant to any law of this state, shall be deemed to satisfy all such requirements, even though they are in registered form, if a security interest in such obligations is perfected on behalf of the public agencies whose moneys are so deposited.

History. Acts 1983, No. 786, § 10; A.S.A. 1947, § 13-2810.

19-9-413. Registration records.

(a) Records, with regard to the ownership of or security interest in registered public obligations, are not subject to inspection or copying under any law of this state relating to the right of the public to inspect or copy public records, notwithstanding any law to the contrary.

(b) Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

History. Acts 1983, No. 786, § 11; A.S.A. 1947, § 13-2811.

19-9-414. Exemption of interest from taxation.

The state covenants with the owners of any registered public obligations that it will not amend or repeal this subchapter if the effect may

be to impair the exemption from income taxation of interest on registered public obligations.

History. Acts 1983, No. 786, § 14; A.S.A. 1947, § 13-2814.

SUBCHAPTER 5 — REVENUE BOND REPORTING

SECTION.

19-9-501. Title.

19-9-502. Annual report.

Effective Dates. Acts 1987, No. 646, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the clarification of certain fiscal transactions of the State is needed in order to more accurately reflect the condition of the State's assets at all times and

to maintain the fiscal integrity of the State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

19-9-501. Title.

This subchapter may be known and cited as the "Revenue Bond Reporting Act".

History. Acts 1985, No. 222, § 1; A.S.A. 1947, § 13-444.

19-9-502. Annual report.

(a) All state and local agencies, boards, commissions, institutions of higher education, and authorities authorized by the state and cities and counties shall annually file a report with the State Board of Finance, on or before October 1, reflecting any and all revenue bonds which have been issued and have not been liquidated as of the preceding July 1 by such governmental units.

(b) The report shall contain:

- (1) The purpose for which the revenue bonds were issued;
- (2) The total dollar amount issued;
- (3) The percentage interest rate payable under the revenue bonds;
- (4) The total dollar amount outstanding;
- (5) The repayment schedule; and
- (6) The source, type, and amount of pledged revenues for the bonds.

(c) The Secretary of the State Board of Finance shall compile a summary report of all revenue bonds from information provided under this section and present the summary report to the Legislative Council as soon as practicable after each October 1.

History. Acts 1985, No. 222, § 2; A.S.A. 1947, § 13-445; Acts 1987, No. 646, § 4.

SUBCHAPTER 6 — REVENUE BOND ACT OF 1987

SECTION.

- 19-9-601. Title.
- 19-9-602. Legislative determination.
- 19-9-603. Legislative intent.
- 19-9-604. Definitions.
- 19-9-605. Construction.

SECTION.

- 19-9-606. Proclamation, order, etc., authorizing issuance of bonds.
- 19-9-607. Hearing.

Effective Dates. Acts 1987 (1st Ex. Sess.), No. 36, § 4: July 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the issuance of revenue bonds by regional water distribution districts has been unduly restricted by Act 852 of 1987 and the amendments thereto made hereby are intended to enable such districts to issue their revenue bonds to finance water improvements which are necessary for the inhabitants of the State to have sufficient availability of water resources. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from July 19, 1987 which is the effective date of Act 852 of 1987."

Acts 1991, No. 210, § 7: Feb. 21, 1991. Emergency clause provided: "It is hereby found and determined that there is an immediate and urgent need to facilitate the refunding of revenue bonds so that governmental units can reduce debt service costs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 213, § 6: Feb. 21, 1991. Emergency clause provided: "It has been found and it is hereby declared that present law, requiring publication of notice of fourteen (14) days prior to the authorization of revenue bonds results, in some instances, in hardship and, in the case of changing interest rates, can result in economic loss, particularly in municipalities in which there is not located a daily newspaper; that the effect of the present law is greatly in the public inter-

est; and that present law can be amended as set forth herein without prejudice to its effect. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1245, § 6: Apr. 9, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act clarifies the definition of 'governing body' as used in the Revenue Bond Act of 1987 and that this act is immediately necessary to clarify the law and to avoid undue hardship and potential economic loss to governing bodies. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1553, § 3: Apr. 5, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the ability of local entities to issue bonds is an important component to the state economy; that laws concerning local bonds issued by regional wastewater districts and regional solid waste management districts are in need of immediate clarification in order to allow those districts to properly issue bonds for the benefit of the district and the

state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither

approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Bonds, 10 U. Ark. Little Rock L.J. 545.

19-9-601. Title.

This subchapter shall be referred to and may be cited as the "Revenue Bond Act of 1987".

History. Acts 1987, No. 852, § 1.

19-9-602. Legislative determination.

The people of the State of Arkansas, by the adoption of Arkansas Constitution, Amendment 65, have expressed their intention to provide governmental units expanded power and authority with respect to the creation of bonded indebtedness for capital improvements of a public nature, facilities for the securing and developing of industry or agriculture, and other purposes as defined and prescribed by the General Assembly.

History. Acts 1987, No. 852, § 2.

A.C.R.C. Notes. Acts 1987, No. 852, § 6, provided: "Notwithstanding any other evidence of legislative intent, it is hereby declared that the provisions of this Act are severable and if any provision of

this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby."

19-9-603. Legislative intent.

It is the specific intent of this subchapter that the provisions hereof are procedural only and are supplemental to other constitutional or statutory provisions now existing or hereafter adopted which may authorize the issuance of revenue bonds for the financing of capital improvements. Nothing contained in this subchapter shall be deemed to be a restriction or limitation upon alternative means of financing previously available or hereafter made available to municipalities or counties for the purposes set forth in this subchapter.

History. Acts 1987, No. 852, § 7.

A.C.R.C. Notes. Acts 1987, No. 852, § 6, provided: "Notwithstanding any other evidence of legislative intent, it is

hereby declared that the provisions of this Act are severable and if any provision of this Act or the application thereof to any person or circumstances is held invalid,

the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.”

19-9-604. Definitions.

As used in this subchapter:

(1) “Bonds” or “revenue bonds” means bonds issued pursuant to an act of the General Assembly under the authority of the Arkansas Constitution, Amendment 65, and means all bonds or other obligations, the repayment of which are secured by rents, loan payments, user fees, charges, or other revenues derived from any special fund or source other than assessments for local improvements and taxes;

(2) “Capital improvements of a public nature” or “capital improvements” means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means:

(A) Any physical public betterment or improvement or any preliminary plans, studies, or surveys relative thereto;

(B) Lands or rights in land, including, without limitations, leases, air rights, easements, rights-of-way, or licenses; and

(C) Any furnishings, machinery, vehicles, apparatus, or equipment for any public betterment or improvement, which shall include, without limiting the generality of the foregoing, the following:

(i) Any and all facilities for state agencies, city or town halls, courthouses and other administrative, executive, or other public offices;

(ii) Court facilities;

(iii) Jails;

(iv) Firefighting facilities and apparatus;

(v) Public health facilities and apparatus;

(vi) Hospitals, nursing homes, and similar extended care facilities;

(vii) Residential housing for low and moderate income, elderly persons or individuals with disabilities and families;

(viii) Parking garages or other facilities;

(ix) Educational and training facilities for public employees;

(x) Auditoriums, stadiums, convention halls, and similar public meeting or entertainment facilities;

(xi) Ambulance and other emergency medical service facilities;

(xii) Civil defense facilities;

(xiii) Air and water pollution control facilities;

(xiv) Drainage and flood control facilities;

(xv) Storm sewers;

(xvi) Arts and crafts centers;

(xvii) Museums;

(xviii) Libraries;

(xix) Public parks, playgrounds, or other public open space;

(xx) Marinas;

(xxi) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;

- (xxii) Tourist information and assistance centers;
 - (xxiii) Historical, cultural, natural, or folklore sites;
 - (xxiv) Fair and exhibition facilities;
 - (xxv) Streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts;
 - (xxvi) Airports, passenger or freight terminals, hangars, and related facilities;
 - (xxvii) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;
 - (xxviii) Slack water harbors, water resource facilities, waterfront development facilities, and navigation facilities;
 - (xxix) Public transportation facilities;
 - (xxx) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;
 - (xxxi) Sewage collection systems and treatment plants;
 - (xxxii) Maintenance and storage buildings and facilities;
 - (xxxiii) Police and sheriff stations, apparatus, and training facilities;
 - (xxxiv) Incinerators;
 - (xxxv) Garbage and solid waste disposal, compacting, and recycling facilities of every kind;
 - (xxxvi) Gas and electric generation, transmission, and distribution systems, including, without limiting the generality of the foregoing, hydroelectric generating facilities, dams, powerhouses, and related facilities; and
 - (xxxvii) Social and rehabilitative facilities;
- (3) "Governing body" means:
- (A) With respect to any governmental unit defined in subdivision (4)(A) of this section, the Governor of the State of Arkansas;
 - (B) With respect to any governmental unit defined in subdivision (4)(B) of this section, the:
 - (i) County court of a county;
 - (ii) Board of directors of a regional water distribution district, regional wastewater district, or regional solid waste management district; or
 - (iii) Council, board of directors, board of commissioners, or similar elected body of a city or town; and
 - (C) With respect to any authority created pursuant to § 14-362-101 et seq. between any two (2) or more political subdivisions of the State of Arkansas, the Governor of the State of Arkansas, the county court of a county participating in the agreement, or the council, board of directors, board of commissioners, or similar elected body of a city or town participating in the agreement;
- (4) "Governmental unit" means:
- (A) The State of Arkansas or any agency or other instrumentality of the state other than an institution of higher education; and
 - (B) Any county, municipality, regional water distribution district, regional wastewater district, regional solid waste management dis-

trict, or other political subdivision of the State of Arkansas, or any agency or instrumentality of a political subdivision of the State of Arkansas; and

(5) "Industrial enterprise" means and includes facilities for manufacturing, producing, processing, assembling, repairing, extracting, warehousing, distributing, communications, computer services, transportation, corporate and management offices, and services provided in connection with any of the foregoing, in isolation or in any combination, that involve the creation of new or additional employment or the retention of existing employment, and industrial parks. However, a shopping center, retail store, shop, or other similar undertaking which is solely or predominantly of a commercial retail nature shall not be an industrial enterprise for the purposes of this subchapter.

History. Acts 1987, No. 852, § 3; 1987 (1st Ex. Sess.), No. 36, § 1; 1997, No. 1245, § 2; 2005, No. 1553, § 1.

Amendments. The 2005 amendment inserted "regional wastewater district, regional solid waste management district"

in (4)(B); inserted the subdivision (i)-(iii) designations in (5)(B) and made related changes; and inserted "regional wastewater district, or regional solid waste management district" in present (5)(B)(ii).

19-9-605. Construction.

This subchapter shall be construed liberally to effectuate the legislative intent and the purposes of this subchapter as complete and independent authority for the performance of each and every act and thing authorized in this subchapter. All powers granted in this subchapter shall be broadly interpreted to effectuate that intent and those purposes and not as a limitation of powers.

History. Acts 1987, No. 852, § 8.

19-9-606. Proclamation, order, etc., authorizing issuance of bonds.

(a) Whenever a governmental unit shall determine the need to issue revenue bonds for capital improvements of a public nature or industrial enterprise, the governing body shall authorize the issuance of those bonds by proclamation, order, ordinance, or resolution clearly stating the principal amount of and the purpose or purposes for which the bonds are to be issued.

(b) Only upon the proclamation, order, ordinance, or resolution of the governing body shall the governmental unit be authorized to issue such bonds, provided that no proclamation, order, ordinance, or resolution shall be required for the issuance of refunding bonds, including refunding bonds where the principal amount of the new bonds to be issued exceeds the outstanding principal amount of the prior bonds or notes to be refunded.

History. Acts 1987, No. 852, § 4; 1987 (1st Ex. Sess.), No. 36, § 2; 1991, No. 210, § 1.

A.C.R.C. Notes. Acts 1991, No. 210, § 2, provided: "Any provision of law, whether special or general, in conflict with this Act is expressly superseded by this Act to the extent of such conflict. This Act is supplemental to all other provisions of

state law governing the issuance of bonds and, except as otherwise provided in this Act, the provisions of state law governing the issuance of bonds continue to apply."

Acts 1991, No. 210, § 3, provided: "The provisions of this Act shall be liberally construed in order to effectively carry out the purposes of this Act."

19-9-607. Hearing.

(a) No proclamation, order, or ordinance prescribed by § 19-9-606 shall be entered by a governing body until the governing body, the governmental unit, or the delegate of either shall have conducted a public hearing:

(1) In the case of a regional water distribution district, regional wastewater district, or regional solid waste management district issuing bonds, in the county seat of the county that has the greatest amount of territory within the district;

(2) In the case of a city or county issuing bonds, within the city or county; or

(3) In the locality to be affected by the issuance of the bonds if subdivisions (a)(1) and (2) of this section are not applicable.

(b) At least ten (10) days before the date set for the public hearing, notice of the hearing shall be published one (1) time in a newspaper of general circulation:

(1) In the locality to be affected; or

(2) In the case of a regional water distribution district, regional wastewater district, or regional solid waste management district, in a newspaper of general circulation in each county in which land lies within the boundaries of the district.

(c) The notice shall:

(1) Contain a general description of the purpose or purposes for which the bonds are to be issued;

(2) Contain the maximum principal amount of the bonds; and

(3) State the date, time, and place of the public hearing.

History. Acts 1987, No. 852, § 5; 1987 (1st Ex. Sess.), No. 36, § 3; 1991, No. 213, § 1; 2005, No. 1553, § 2.

A.C.R.C. Notes. Acts 1991, No. 213, § 2, provided: "This Act shall apply to revenue bonds issued after February 28, 1991."

Amendments. The 2005 amendment deleted "in the locality to be affected by the issuance of the bonds or, in the case of regional water distribution districts, in

the county seat of the county in which the majority of the land lies in the district" from the end of (a); added present (a)(1)-(3); inserted the subdivision (1) and (2) designations in (b) and made related changes; substituted "a regional water distribution district, regional wastewater district, or regional solid waste management district" for "regional water distribution districts" in present (b)(2); and inserted "maximum" in (c)(2).

SUBCHAPTER 7 — TAXABLE BOND ACT OF 1989

SECTION.

- 19-9-701. Title.
- 19-9-702. Legislative findings.
- 19-9-703. Definitions.
- 19-9-704. Subchapter supplemental —
Effect on other state laws
or on previously issued
bonds.

SECTION.

- 19-9-705. Construction.
- 19-9-706. Issuance of bonds authorized.
- 19-9-707. Ordinance, resolution, inden-
ture, etc.
- 19-9-708. Sale.
- 19-9-709. Proceeds — Use.
- 19-9-710. Refunding bonds.

Effective Dates. Acts 1989, No. 632, § 13: Mar. 17, 1989. Emergency clause provided: "It is hereby found and declared that there is an immediate and urgent need for providing more readily available financing for governmental units of the State of Arkansas in order that they may carry out their responsibilities previously established by the General Assembly; and that this need can be remedied or alleviated through the adoption of this Act and

the authorization of the issuance of taxable bonds for public purposes as provided herein. This Act is immediately necessary in order that such financings can be accomplished and the resulting public benefits realized. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from after its adoption."

19-9-701. Title.

This subchapter shall be referred to as, and may be cited as, the "Taxable Bond Act of 1989".

History. Acts 1989, No. 632, § 1.

19-9-702. Legislative findings.

The General Assembly of the State of Arkansas hereby finds and declares:

(1) The Supreme Court of the United States, in the case of *South Carolina v. Baker*, decided April 20, 1988, 108 S. Ct. 1355, held that no barrier exists under the Constitution of the United States to the imposition of federal income taxation on interest received by holders of bonds of governmental units. Such exemption from federal income taxation has been a desirable feature of such bonds, operating to reduce interest expense to governmental units and enhancing the marketability of the bonds;

(2) The continued ability of governmental units to provide for the financing of public improvements and other projects and programs which serve important public purposes by the issuance of bonds is essential for the health, welfare, and economic well-being of the people of the State of Arkansas;

(3) By the adoption of the Internal Revenue Code of 1986, as amended, the Congress of the United States has substantially limited

the purposes for which bonds may be issued with interest exempt from federal income taxation and imposed other restrictive provisions as a condition of such exemption. Additionally, under the authority of *South Carolina v. Baker*, the Congress of the United States may be expected to enact other laws and effect changes in federal tax policy to eliminate or further reduce the exemption of interest on bonds of governmental units from federal income taxation, with the result that, to provide financing for public purposes, governmental units may now find it in their best interests to issue bonds the interest on which is not exempt from federal income taxation;

(4) Under the Arkansas Constitution and existing laws of this state, governmental units have had, and continue to have, the power to issue bonds without respect to whether the interest thereon is subject to federal income taxation; but many statutes applicable to governmental units lack effective, modern procedures under which the structure of a taxable financing may comply with current market practices, obtain the lowest effective borrowing cost, or provide terms most suitable to the governmental unit, the project, or the financing program; and

(5) The purposes sought to be achieved by this subchapter are to provide governmental units with all means necessary to obtain financing for public purposes under the changing circumstances related to future tax policy of the federal government and to supplement and complement the provisions of existing and future laws authorizing the issuance of bonds, to the end that governmental units may provide for the health, safety, and welfare of the people by the issuance of bonds under terms and conditions necessary under the then-existing conditions.

History. Acts 1989, No. 632, § 2.

U.S. Code. The Internal Revenue Code

of 1986, referred to in this section, is codified as 26 U.S.C. § 1 et seq.

19-9-703. Definitions.

As used in this subchapter, unless the content otherwise requires:

(1) "Act" means the Taxable Bond Act of 1989.

(2) "Bonds" means any bonds, issued pursuant to the Arkansas Constitution and pursuant to an act of the General Assembly heretofore or hereafter enacted, and means all debentures, notes, warrants, tax anticipation notes, bond anticipation notes, commercial paper, or other evidence of indebtedness or leases, installment purchase contracts, or other agreements or certificates of participation therein issued by or on behalf of a governmental unit, secured by revenues from any special fund or source or assessments for local improvements and taxes;

(3) "Foreign currency" means currency, Eurodollars, or money other than the legal tender of the United States;

(4) "Governmental unit" means the State of Arkansas, any department, board, commission, or other agency or instrumentality of the state, or any county, municipality, school district, regional water distribution district, improvement district, public trust, or other politi-

cal subdivision of the state, heretofore or hereafter created, or any board, commission, authority, or other public agency or instrumentality of a governmental unit which is now or hereafter authorized by law to issue bonds. Nothing herein shall be deemed to give any department, board, commission, or other agency of the state any additional authority to issue bonds or take any action independently and without acting by or through the State Board of Finance if the participation of the State Board of Finance is otherwise required by the law under authority of which the bonds are issued;

(5) "State" means the State of Arkansas; and

(6) "Taxable bonds" means bonds the interest on which is not, in any manner, exempt from federal income taxation or excludable from gross income for federal income tax purposes.

History. Acts 1989, No. 632, § 3.

19-9-704. Subchapter supplemental — Effect on other state laws or on previously issued bonds.

(a) This subchapter is supplemental to all other provisions of state law governing the issuance of bonds by any governmental unit and, except as otherwise provided in this subchapter, the provisions of state law governing the issuance of bonds by any governmental unit shall continue to apply to the issuance by such governmental unit of taxable bonds.

(b) Nothing herein shall be deemed to broaden or otherwise alter any provisions of state law as they relate to the issuance of the bonds the interest on which is, in some manner, exempt or excludable from federal income taxation.

(c) The reference herein to law providing authority for issuance of bonds shall mean laws now in effect and as hereafter enacted or amended by the General Assembly.

(d) Nothing contained herein shall be construed to impugn the validity of any taxable bonds heretofore issued.

History. Acts 1989, No. 632, § 9.

19-9-705. Construction.

The provisions of this subchapter shall be liberally construed in order to effectively carry out the purposes of this subchapter.

History. Acts 1989, No. 632, § 10.

19-9-706. Issuance of bonds authorized.

A governmental unit is hereby authorized to issue taxable bonds for any purpose permitted by the law heretofore or hereafter enacted under authority of which such taxable bonds are issued, whether such

purposes are set forth in each law by specific category or by a general authorization to accomplish public purposes.

History. Acts 1989, No. 632, § 6.

19-9-707. Ordinance, resolution, indenture, etc.

The ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of taxable bonds may provide for any of the following:

(1) The bonds shall be in such denominations, in such form, either bearer or registered, and payable at such place or places, either within or without the United States, at such time or times, as, in each case, the governmental unit shall determine, subject to any limitations on the maturity of bonds set forth in the law under authority of which the bonds are issued;

(2) The bonds shall be payable in legal tender of the United States, in a foreign currency, in commodities, or in precious metals, as the governmental unit shall determine;

(3) The governmental unit may appoint, in connection with the bond issue, a cotrustee located outside of the boundaries of the United States or its territories or possessions so long as it shall also appoint a trustee otherwise meeting the requirements of the statutes under authority of which the bonds are issued. The governmental unit may appoint, in connection with the bond issue, a paying agent or a copaying agent located outside the boundaries of the United States or its territories or possessions;

(4) In connection with, or incidental to, the sale and issuance of bonds, the governmental unit may enter into any contracts which it determines to be necessary or appropriate to achieve a desirable effective interest rate in connection with the bonds by means of, but not limited to, contracts commonly known as investment contracts, funding agreements, interest rate swap agreements, currency swap agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, options, puts or calls, whether or not used to hedge payment, rate, spread, or similar exposure. Such contracts or arrangements may also be entered into by governmental units in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor. Such contracts and arrangements shall be made upon the terms and conditions established by the governmental unit, after giving due consideration for the credit worthiness of the counterparties, where applicable, including any rating by a nationally recognized rating service or any other criteria as may be appropriate;

(5) In connection with, or incidental to, the sale and issuance of the bonds, or entering into any of the contracts or arrangements referred to in subdivision (4) of this section, the governmental unit may enter into

such credit enhancement or liquidity agreements, with such payment, interest rate, security, default, remedy, and other terms and conditions as the governmental unit shall determine; and

(6) Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit, proceeds of the bonds and any moneys set aside or pledged to secure payment of the principal of, premium, if any, and interest on the bonds, or any of the contracts entered into pursuant to subdivision (4) of this section, may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of the bonds.

History. Acts 1989, No. 632, § 4.

19-9-708. Sale.

The bonds may be sold at public or private sale. If the governing unit shall determine that a negotiated sale of the taxable bonds is in the best interest of the governmental unit, the governmental unit may negotiate for the sale of the taxable bonds.

History. Acts 1989, No. 632, § 5.

19-9-709. Proceeds — Use.

(a) The proceeds of an issue of taxable bonds and the investment earnings thereon shall be used, in the manner, and to the extent specified in the ordinance or resolution providing for the issuance of the bonds, by the governmental unit issuing the bonds for a purpose specified for the issuance of bonds in the law under authority of which the bonds are issued.

(b) Notwithstanding subsection (a) of this section, invested or reinvested proceeds of an issue of taxable bonds shall be deemed to have been expended for a purpose specified for the issuance of bonds in the law under authority of which the bonds are issued if the earnings thereon and proceeds of liquidation of the investments are acquired with such proceeds, to the extent that they are: (1) Applied to pay or service debt service on the bonds; or (2) Applied toward such purpose.

(c) When the bond proceeds of taxable bonds are invested or reinvested by the governmental unit in obligations permitted by this subchapter, the issuance of the taxable bonds shall be deemed to be for a public purpose, provided, the net proceeds of such investment or reinvestment, after sufficient provision is made for debt service on the bonds, are then applied to a purpose for which the governmental unit has authority to issue bonds and the governmental unit has determined upon appropriate findings of fact that such application of net proceeds is for a public purpose which the governmental unit is authorized or empowered to perform.

History. Acts 1989, No. 632, §§ 6, 7.

19-9-710. Refunding bonds.

Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit or any more restrictive provisions of the law under authority of which the bonds are issued, the proceeds of taxable bonds issued to refund or advance refund a prior issue or issues of bonds may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of such refunding bonds.

History. Acts 1989, No. 632, § 8.

CHAPTER 10 CLAIMS AGAINST THE STATE

SUBCHAPTER

1. GENERAL PROVISIONS.
2. ARKANSAS STATE CLAIMS COMMISSION.
3. EFFECT OF INSURANCE COVERAGE.
4. WORKERS' COMPENSATION COMMISSION.

A.C.R.C. Notes. References to "this chapter" in §§ 19-10-101 to 19-10-210 and Subchapters 3 and 4 may not apply to

§§ 19-10-212 and 19-10-213, which were enacted subsequently.

RESEARCH REFERENCES

A.L.R. Actual notice or knowledge by governmental body or officer of injury or incident resulting in injury as constituting required claim or notice of claim for injury — modern status. 7 A.L.R.4th 1063.

Am. Jur. 72 Am. Jur. 2d, States, § 76.

Ark. L. Rev. Pagan, Eleventh Amendment Analysis, 39 Ark. L. Rev. 447.

C.J.S. 81A C.J.S., States, § 267 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-10-101. Investigatory powers.
 19-10-102. Legal representative for state agencies.
 19-10-103. State employee not to represent claimant.

SECTION.

- 19-10-104. Claims for late or lost warrants.

Cross References. Claims for reimbursement for uncollectible state warrants or checks, § 25-16-609.

Damages adjudged against state officers and employees, payment by state, § 21-9-201 et seq.

Governmental liability, § 21-9-201 et seq.

Effective Dates. Acts 1949, No. 462,

§ 17: approved Mar. 28, 1949. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition or the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emer-

gency is therefore declared and this act shall take effect and be in force from and after its passage.”

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: “It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage.”

Acts 1977, No. 826, § 3: Mar. 28, 1977. Emergency clause provided: “It has been found and determined by the General Assembly that duplicate warrants being redeemed by the State Treasurer causes extra duties to be performed by the State Treasurer, Auditor of State and the Department of Finance and Administration, therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage.”

19-10-101. Investigatory powers.

The Director of the Department of Finance and Administration, as soon as the director learns of facts from which he or she concludes that a claim, other than for personal injury or death of a state employee, may be filed under this chapter against the state or any of its agencies, departments, or institutions, whether or not the claim has already been filed, is authorized and directed to investigate and take evidence concerning the claim. The director is, for this purpose, authorized to exercise all necessary investigatory powers conferred upon him or her by this chapter. All information acquired by the director shall be made available to the Arkansas State Claims Commission prior to the hearing and determination thereof.

History. Acts 1949, No. 462, § 12; 1951, No. 373, § 7; A.S.A. 1947, § 13-1412.

19-10-102. Legal representative for state agencies.

(a) The attorneys of any state agency, department, or institution against which a claim is filed shall represent their respective agencies before the Arkansas State Claims Commission. The Attorney General shall represent all agencies, departments, and institutions which have no special legal representatives before the Arkansas State Claims Commission.

(b) Legal representation for a public employer before the Workers' Compensation Commission shall be in the manner prescribed in § 21-5-606.

History. Acts 1949, No. 462, § 11; A.S.A. 1947, § 13-1411.

19-10-103. State employee not to represent claimant.

No full-time employee of the State of Arkansas or of its agencies, nor a member of any agency, shall appear before either the Arkansas State Claims Commission or the Workers' Compensation Commission as attorney or representative for any claimant in the presentation or prosecution of any claim filed under this chapter.

History. Acts 1949, No. 462, § 13; A.S.A. 1947, § 13-1413.

19-10-104. Claims for late or lost warrants.

The Arkansas State Claims Commission, before approving a claim for a state warrant for purchase of commodities delivered or services performed that has been lost or presented for payment after expiration of the legal date for redemption, shall request proof from the Auditor of State that the original warrant was legally cancelled because of late redemption presentation or, in the case of a lost warrant, an official warrant cancellation procedure has been exercised.

History. Acts 1977, No. 826, § 1; A.S.A. 1947, § 13-1415.

SUBCHAPTER 2 — ARKANSAS STATE CLAIMS COMMISSION

SECTION.

- 19-10-201. Creation.
- 19-10-202. Director — Personnel.
- 19-10-203. Duties of director.
- 19-10-204. Jurisdiction.
- 19-10-205. Rules and regulations.
- 19-10-206. Meetings.
- 19-10-207. Power to examine.
- 19-10-208. Complaints.

SECTION.

- 19-10-209. Time for filing.
- 19-10-210. Notice and hearings.
- 19-10-211. Appeals of decisions.
- 19-10-212. Reports of agency liability.
- 19-10-213. Agency to pay claim.
- 19-10-214. Effect on liens.
- 19-10-215. Restrictions on awards.

A.C.R.C. Notes. References to "this subchapter" in §§ 19-10-201 to 19-10-210 may not apply to § 19-10-212 and § 19-10-213, which were enacted subsequently.

Effective Dates. Acts 1949, No. 462, § 17: approved Mar. 28, 1949. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition or the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1955, No. 276, § 5: Mar. 16, 1955. Emergency clause provided: "Whereas, it has been found and is declared by the General Assembly of the State of Arkansas that the present method employed by

the State in paying its just debts causes innumerable hardships on the part of the claimants and causes unnecessary expenses and delay in recovering their just compensation from the State, all of which produces irreparable damage to the citizens of the State of Arkansas, now therefore, this act is necessary to remedy this existing situation and will remedy same, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, safety and welfare shall take effect upon its passage and approval."

Acts 1983, No. 677, § 10: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Employees Retirement System law need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 861, § 8: Apr. 4, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, meeting in Regular Session, that the persons and payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act be-

comes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 850, § 39: Mar. 27, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1298, § 5: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an urgent need to clarify the jurisdiction of the Arkansas Claims Commission and that the amendment of § 19-10-204(b) will serve to further and accomplish this purpose. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1141, § 11: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two

(2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2003, No. 926, § 8: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly,

that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2003 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2003."

RESEARCH REFERENCES

Ark. L. Notes. Smolla, Politics and Due Process Don't Mix: Should the State Claims Commission Be Abolished?, 1986 Ark. L. Notes 43.

Ark. L. Rev. State Immunity and the Arkansas Claims Commission, 21 Ark. L. Rev. 180.

Hall v. University of Nevada: Sovereign Immunity and the Transitory Action, 27 Ark. L. Rev. 546.

Case Notes, Bly v. Young, Beaulieu v. Gray, and Carter v. Bush: The Arkansas State Employee Immunity Trilogy, 41 Ark. L. Rev. 893.

U. Ark. Little Rock L.J. Stafford, Separation of Powers and Arkansas Administrative Agencies: Distinguishing Judicial Power and Legislative Power, 7 U. Ark. Little Rock L.J. 279.

CASE NOTES

Administrative Review.

The Arkansas Administrative Procedure Act, providing for a review from actions of state commissions and agencies, has no application to the State Claims Commission. *Fireman's Ins. Co. v. Arkan-*

sas State Claims Comm'n, 301 Ark. 451, 784 S.W.2d 771 (1990), cert. denied, 498 U.S. 824, 111 S. Ct. 76, 112 L. Ed. 2d 50 (1990) (decision based in part on Acts 1949, No. 462, § 6 without regard to amendment by Acts 1983, No. 470, § 6).

19-10-201. Creation.

(a)(1) There is created a commission to be known as the "Arkansas State Claims Commission". It shall consist of five (5) members to be known as "commissioners". Two (2) members shall be attorneys and one (1) member shall be a public-spirited person of recognized standing.

(2)(A) The commissioners shall be appointed by the Governor and confirmed by the Senate. They shall serve for terms of five (5) years and thereafter until a successor has been appointed and qualified. A vacancy in the office of commissioner shall be filled by the Governor

and that appointee shall hold office during the unexpired portion of the term in which the vacancy occurred.

(B) Members of the commission may be appointed to and may serve successive terms.

(b) Before entering upon the duties of his or her office, each commissioner shall take the constitutional oath of office.

(c)(1) A commissioner shall not hear or participate in the consideration of any claim in which he or she is interested personally, either directly or indirectly.

(2) If for reasons of conflicts of interest a commissioner disqualifies himself or herself is absent for any reason from hearing a particular claim, the interested parties may request that a third special commissioner be appointed by the Governor to hear a specific claim.

(d) The commission shall elect from its membership a chair.

(e)(1) Each commissioner shall receive such salary as may be prescribed by law and appropriated by the General Assembly. The salary shall be paid in the manner as are salaries of other state officials and employees.

(2) In addition to salary, each member may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1955, No. 276, § 2; 1983, No. 470, § 1; 1985, No. 861, § 7; A.S.A. 1947, § 13-1401, 13-1401.2; Acts 1997, No. 250, § 175.

A.C.R.C. Notes. Acts 1985, No. 861, § 7, provided that the terms of office of the members of the Arkansas State Claims Commission serving on March 1, 1985, shall expire on July 1, 1985. As of July 1, 1985, the Arkansas State Claims Commission created by this section shall be composed of five persons. The five persons appointed by the Governor under this section shall be appointed for the following terms: Two shall serve until January 15, 1989, two shall serve until January 15, 1991, and the other shall serve until Janu-

ary 15, 1992, and they shall serve until their successors are appointed and qualified. Subsequent appointees shall serve five-year terms. Acts 1985, No. 861, § 7, does not abolish the Arkansas State Claims Commission created by this section except the provisions establishing the number of commissioners and their terms of office.

Acts 1955, No. 276, § 3, provided that the Arkansas State Claims Commission should have all the powers, etc., of the commission that it replaced and that all claims, etc., and records, etc., pending or belonging to the former commission were to be transferred to the new commission.

CASE NOTES

Jurisdiction.

Landowners who brought action against Arkansas Highway Commission and the director of the Department of Transportation to recover for inverse condemnation and to obtain an injunction, and alleged that they had been deprived of due process because of the unlawful taking of their property, did not need to resort to federal court when the remedies of the county chancery court and the State

Claims Commission were available to them. *Mak Co. v. Smith*, 763 F. Supp. 1003 (W.D. Ark. 1991).

Cited: *Parish v. Pitts*, 244 Ark. 1239, 429 S.W.2d 45 (1968); *Boshears v. Arkansas Racing Comm'n*, 258 Ark. 741, 528 S.W.2d 646 (1975); *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771 (1990); *Office of Child Support Enforcement v. Mitchell*, 330 Ark. 338, 954 S.W.2d 907 (1997).

19-10-202. Director — Personnel.

(a) The Executive Secretary or Clerk of the Arkansas State Claims Commission shall be designated by the commission and shall serve as the director of the commission.

(b) The commission may appoint such other personnel as may be necessary to effectuate the operations of the commission and as may be authorized by biennial appropriation of the General Assembly.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405.

19-10-203. Duties of director.

(a) The Director of the Arkansas State Claims Commission shall maintain a system of filing and adjudicating of claims against the state. The director shall keep a docket of all claims filed and shall present them to the commission in the chronological order of filing.

(b) The director shall be responsible for maintenance and custody of the docket, files, and records of the commission, including the transcripts of testimony and exhibits, with all papers and requests filed in proceedings, the minutes of all actions taken, and all of the commission's findings, determinations, opinions, reports, orders, rules, and regulations.

(c) The director shall prepare the docket of claims to be considered by the commission and shall notify all parties of record of the time, date, and place of hearing in advance when a claim will be docketed for hearing before the commission.

(d) The director shall be authorized by the commission to sign or authenticate all orders and other actions of the commission.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405.

19-10-204. Jurisdiction.

(a) Except as otherwise provided by law, the Arkansas State Claims Commission shall have exclusive jurisdiction over all claims against the State of Arkansas and its several agencies, departments, and institutions, but shall have no jurisdiction of claims against municipalities, counties, school districts, or any other political subdivisions of the state.

(b)(1)(A)(i) The commission shall have no jurisdiction of, or authority with respect to, claims arising under:

(a) The Workers' Compensation Law, § 11-9-101 et seq.;

(b) The Department of Workforce Services Law, § 11-10-101 et seq.;

(c) The Arkansas Teacher Retirement System Act, § 24-7-201 et seq.;

(d) The Arkansas Public Employees' Retirement System Act, § 24-4-101 et seq.;

(e) The State Police Retirement System Act, § 24-6-201 et seq.; or

(f) Laws providing for old age assistance grants, child welfare grants, blind pensions, or any laws of a similar nature.

(ii) Additionally, the commission shall have no jurisdiction over claims against the state for repayment of child support, except in cases where the underlying support order is set aside as void ab initio by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.

(iii) The commission shall have no jurisdiction over:

(a) A claim by a member of the uniformed armed services against the State Military Department, the State Militia, or any subdivision thereof, if the claim arises out of the performance of the claimant's military duty;

(b) Claims against the Department of Community Correction for acts committed by a person while that person is subject to conditions of parole or probation under Arkansas law; or

(c) Claims against the Department of Correction for acts committed by inmates while on authorized release from the Department of Correction.

(B) Claims solely addressing the receipting, processing, and reissuance of child support payments through the Arkansas child support clearinghouse shall remain within the jurisdiction of the commission.

(2)(A) The commission shall have jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction.

(B) The commission shall have no jurisdiction over claims for state tax refunds under § 26-18-507, claims challenging tax assessments under § 26-18-406, and claims challenging tax laws under Arkansas Constitution, Article 16, § 13.

(3)(A) The commission shall make no award for any claim which, as a matter of law, would be dismissed from a court of law or equity for reasons other than sovereign immunity.

(B) Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim.

(c) The commission shall have jurisdiction over actions to contest eligibility, qualification, or election to serve as a member of the House of Representatives of the General Assembly for the purpose of making a nonbinding recommendation thereon to that chamber of the General Assembly.

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1991, No. 1014, § 2; 1997, No. 1298, § 1; 2001, No. 1625, § 1; 2003, No. 1282, § 1; 2003, No. 1468, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Public Finance, Claims Commission, 26 U. Ark. Little Rock L. Rev. 461.

CASE NOTES

ANALYSIS

Actions Against Agents.

Return of Property.

Takings.

Tort Claims.

Workers' Compensation Awards.

Actions Against Agents.

Where an outdoor advertising sign was removed without compensation by an agent contractor of the State Highway Commission, the owner of the sign was limited to a remedy in state claims against the commission. However, he could pursue an action for commission of intentional tort on the part of the contractor. *Tri-B Adv., Inc. v. Arkansas State Hwy. Comm'n*, 260 Ark. 227, 539 S.W.2d 430 (1976).

Return of Property.

In a civil rights action, the plaintiff, who claimed that his house had been searched pursuant to warrant and that the officers had seized several personal items not covered by the warrant that were of sentimental value, was deprived of his property without due process for he could not be granted adequate relief under this section, since only the claim against one of the officers was subject to the jurisdiction of the State Claims Commission and even a judgment in plaintiff's favor against such an officer would not give the plaintiff the remedy he sought, the return of specific property. *Bumgarner v. Bloodworth*, 738 F.2d 966 (8th Cir. 1984).

Takings.

A landowner's due process and equal protection claims are satisfied under Arkansas law since the landowner, claiming a taking of property, may either seek prospective injunctive relief in chancery court or damages from the State Claims Commission. *Austin v. Arkansas State Hwy. Comm'n*, 320 Ark. 292, 895 S.W.2d 941 (1995).

Tort Claims.

Arkansas Const., Art. 2, §§ 7 and 13 prevent the General Assembly from giving the State Claims Commission exclusive jurisdiction of tort claims against state employees or officers for their unlawful acts. *Grimmett v. Digby*, 267 Ark. 192, 589 S.W.2d 579 (1979), questioned, *Carter v. Bush*, 283 Ark. 16, 677 S.W.2d 837 (Ark. 1984).

Workers' Compensation Awards.

Where the State Claims Commission awarded payment to debtor as a result of her husband, a state employee, being killed in the line of duty within the scope of his employment, but did not, under this section, have jurisdiction to make such an award, the award was in the nature of an award under the Workers' Compensation Act and thus was not for the benefit of creditors in bankruptcy proceeding and under § 11-9-110 not subject to legal process. *Dinning v. Wills*, 4 B.R. 475 (E.D. Ark. 1980).

Cited: *Hanley v. Arkansas State Claims Comm'n*, 333 Ark. 159, 970 S.W.2d 198 (1998).

19-10-205. Rules and regulations.

The Arkansas State Claims Commission shall have the power to make and alter or amend all rules and regulations governing the procedure before it which may be deemed necessary and expedient for the orderly discharge of its duties and which shall not be inconsistent with any of the provisions of this subchapter or other laws.

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402.

19-10-206. Meetings.

(a)(1) The Arkansas State Claims Commission shall meet at such time and place as may be designated by the chair or the Director of the Arkansas State Claims Commission.

(2) General meetings of the commission for the purpose of hearing testimony and taking evidence will be held each month unless scheduled differently by the chair or director.

(b) The commission may, at its discretion, hold special meetings of the commission upon request by the interested parties.

(c) The commission shall traditionally meet in Little Rock at the State Capitol, but may conduct hearings elsewhere in the state if the commission deems a hearing is relative to business before the commission.

(d)(1) A majority of the commissioners shall constitute a quorum, and the concurrence of two (2) members of the commission shall be necessary for the allowance or disallowance of any claims.

(2) A vacancy shall not impair the right of the remaining two (2) members to exercise all powers of the full commission.

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1987, No. 249, § 1.

19-10-207. Power to examine.

(a) The Director of the Arkansas State Claims Commission or any member of the Arkansas State Claims Commission shall have the authority to administer oaths, to subpoena witnesses, to examine any books, documents, or records that may be relevant to any proceeding before the commission, and to require the production of any such materials.

(b) In actions to contest the election of a member of the House of Representatives of the General Assembly, the commission's general authority to subpoena witnesses and documents shall specifically include the authority to subpoena election officers and to subpoena any and all ballots cast or other election records in the election at issue.

(c) If any claimant or witness to whom an oath has been administered as provided in this section shall swear falsely to any fact material to the investigation of a claim, such false swearing shall constitute perjury, and the guilty party shall be subject to prosecution therefor.

(d)(1) If any person or entity shall fail or refuse to obey any commission subpoena or order or shall refuse to testify or produce any books, papers, or other documents, the commission may present its petition setting forth the facts to any court of record. Thereupon, in a proper case, the court shall issue its subpoena to the person or entity, requiring his or her or its attendance before the court to testify or produce such books, papers, and documents as may be deemed necessary and pertinent. Any person or entity failing or refusing to obey the subpoena or order of the court may be proceeded against in the same

manner as for refusal to obey any other subpoena, as provided by the Arkansas Rules of Civil Procedure.

(2) The commission shall be entitled to the services of the Attorney General and the services of the prosecuting attorneys for the county and district in which the enforcement is required.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405; Acts 1991, No. 1014, § 3; 1999, No. 686, § 1.

19-10-208. Complaints.

(a)(1) All proceedings to enforce claims under this subchapter shall be commenced by a verified complaint, of which the original and three (3) copies shall be filed with the Director of the Arkansas State Claims Commission.

(2) The party filing the claim should be designated as the claimant, and the State of Arkansas shall be designated as respondent.

(b) The complaint shall state concisely the facts upon which the claim is based and shall set forth:

(1) The address of the claimant and the claimant's attorney, if any;

(2) The time and place of the circumstances giving rise to the claim;

(3) The state department, agency, or institution in which the claim originated;

(4) The amount claimed; and

(5) All averments of fact necessary to state a cause of action against a private person or corporation.

(c) If the claim is based upon a contract or other instrument in writing, a copy shall be attached to the complaint and the copies filed with the director.

(d)(1) In the complaint the claimant shall state whether his or her claim has been presented to any state department, or officer thereof, and if so, when presented, to whom, and what action was taken thereon.

(2) The director shall further state whether he or she has received any payment on account of such claim and, if so, the amount received.

(3)(A) The director shall also state whether any other person or corporation has any absolute or contingent interest in his or her claim.

(B) If any person or corporation is interested in the claim, the claimant shall state the name and address of that person or corporation having the interest, the nature of the interest, and how and when it was acquired.

(e) If the claimant is an executor, administrator, guardian, or other representative acting under judicial appointment, a duly certified copy of the record of appointment shall be filed with the complaint.

History. Acts 1949, No. 462, § 3; 1983, No. 470, § 3; A.S.A. 1947, § 13-1403.

19-10-209. Time for filing.

No claim may be considered and allowed by the Arkansas State Claims Commission unless it has been filed with the director of the commission as provided by this subchapter within the period allowed by law for the commencement of an action for the enforcement of the same type of claim against a private person.

History. Acts 1949, No. 462, § 6; 1983, No. 470, § 6; A.S.A. 1947, § 13-1406.

A.C.R.C. Notes. The decision of the Supreme Court of Arkansas in *Fireman’s Ins. Co. v. Arkansas State Claims Comm’n*, 301 Ark. 451, 784 S.W.2d 771 (1990), which held that the Arkansas Administrative Procedure Act has no application to the State Claims Commission, was based upon provisions deleted from Acts 1949, No. 462, § 6 by Acts 1983, No. 470, § 6.

CASE NOTES

Cited: *Hardin v. City of DeValls Bluff*, 256 Ark. 480, 508 S.W.2d 559 (1974).

19-10-210. Notice and hearings.

(a) The Director of the Arkansas State Claims Commission shall notify each claimant and also the head of each state agency, department, or institution against which a claim is filed of the time and place set for the hearing thereof.

(b)(1) In conducting hearings, the Arkansas State Claims Commission shall not be bound by the formal rules of evidence and shall conduct all hearings publicly and in a fair and impartial manner, giving the parties full opportunity for presentation of evidence, cross-examination of witnesses, and argument.

(2) To the extent practicable, the commission shall adopt the procedure used by the circuit courts, and its hearing shall be conducted in a judicial manner.

History. Acts 1949, No. 462, § 4; 1951, No. 373, § 2; 1983, No. 470, § 4; A.S.A. 1947, § 13-1404; Acts 2005, No. 1962, § 88.

Amendments. The 2005 amendment substituted “circuit” for “Arkansas chancery” in (b)(2).

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

U. Ark. Little Rock L.J. Arkansas Law Survey, Roberts and Deere, Torts, 8 U. Ark. Little Rock L.J. 207.

19-10-211. Appeals of decisions.

(a) A decision of the Arkansas State Claims Commission may be appealed only to the General Assembly.

(b) When any party to a claim before the commission is aggrieved by the decision of the commission concerning such claim, the aggrieved party may, on a form designed by the commission:

(1) Within forty (40) days after the decision is rendered, file with the commission a notice of appeal of the decision to the General Assembly; or

(2) Within forty (40) days after the decision is rendered, file with the commission a motion for reconsideration requesting the commission to reconsider its decision; and

(3) Within twenty (20) days after commission reconsideration or denial of the motion for reconsideration, file with the commission a notice of appeal of the decision to the General Assembly.

(c) The commission shall, in a timely manner, notify the Legislative Council or the appropriate committee of the General Assembly and all parties to the claim when any notice of appeal to the General Assembly is filed with the commission.

(d) When the commission notifies parties of a decision of the commission, it shall advise the parties of the right of appeal.

History. Acts 1997, No. 33, § 1.

19-10-212. Reports of agency liability.

(a) It is the intent of the General Assembly that when any state agency, board, commission, or institution of higher education admits liability to a claim filed with the Arkansas State Claims Commission and the claim involves a contract with a state agency, board, commission, or institution of higher education or the claim exceeds ten thousand dollars (\$10,000), that the agency, board, commission, or institution of higher education file a written report of the claim to the Litigation Reports Oversight Subcommittee of the Legislative Council.

(b)(1) The report shall include a concise statement of facts with an explanation of the agency's liability.

(2) Further, the report shall be filed with the subcommittee within thirty (30) days after the claim has been adjudicated by the Arkansas State Claims Commission.

History. Acts 1997, No. 850, § 30; 2005, No. 1962, § 89.

A.C.R.C. Notes. References to "this subchapter" in §§ 19-10-201 to 19-10-211 may not apply to this section which was enacted subsequently.

References to "this chapter" in §§ 19-10-101 to 19-10-211 and Subchapters 3 and 4 may not apply to this section which was enacted subsequently.

Acts 2005, No. 492, § 28, provided: "CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency,

board, commission or institution of higher education or the claim exceeds ten thousand dollars (\$10,000) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Acts 2005, No. 2276, § 23, provided: "CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits

liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds ten thousand dollars (\$10,000) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Acts 2007, No. 1261, § 30, provided: "It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds ten thou-

sand dollars (\$10,000) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Amendments. The 2005 amendment, in (a), inserted "Arkansas," substituted "ten thousand dollars (\$10,000)" for "seven thousand five hundred dollars (\$7,500)," inserted "Reports Oversight" and deleted "Arkansas" preceding "Legislative Council"; in (b)(2), substituted "subcommittee" for "Litigation Subcommittee" and inserted "Arkansas"; and made minor stylistic changes throughout.

Cross References. Report on claim filed with State Claims Commission, § 10-3-314.

19-10-213. Agency to pay claim.

In the event that any claim authorized herein is determined to be a valid claim against the state and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he or she shall disburse the amount of the claim to the claimant.

History. Acts 1997, No. 850, § 33.

A.C.R.C. Notes. References to "this subchapter" in §§ 19-10-201 to 19-10-210 may not apply to this section which was enacted subsequently.

References to "this chapter" in §§ 19-10-101 to 19-10-210 and Subchapters 3 and 4 may not apply to this section which was enacted subsequently.

Acts 2005, No. 98, § 4, provided: "EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an em-

ployment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Acts 2005, No. 492, § 26, provided: "CLAIMS FROM CASH FUNDS. In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk

of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a non-revenue receipt into the Miscellaneous Revolving Fund from which he shall disburse the amount of the claim to the claimant."

Acts 2005, No. 2276, § 21, provided: "CLAIMS FROM CASH FUNDS. In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a non-revenue receipt into the Miscellaneous Revolving Fund from which he shall disburse the amount of the claim to the claimant."

Acts 2005, No. 2276, § 22, provided: "EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System."

Acts 2005, No. 2276, § 23, provided: "CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds ten thousand dollars (\$10,000) that such agency, board, commission or institution of higher

education file a written report thereof to the Litigation Subcommittee of the Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Acts 2007, No. 780, § 4, provided: "EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System."

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

Acts 2007, No. 1261, § 28, provided: "CLAIMS FROM CASH FUNDS. In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a non-revenue receipt into the Miscellaneous Revolving fund from which he shall disburse the amount of the claim to the claimant."

Acts 2007, No. 1261, § 29, provided: "EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall no-

tify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.”

Acts 2007, No. 1419, § 21, provided: “DEPARTMENT OF HEALTH AND HUMAN SERVICES CLAIMS. For any claims in this Act appropriated to the Department of Health and Human Services, the Clerk of the State Claims Commission shall consult with the Department of Health and Human Services and the Chief Fiscal Officer of the State to determine the division and funds to which liability should be assigned and from which the warrants shall be drawn. The Clerk of the State Claims Commission shall initiate the appropriate transfers as may be required and as approved by the Chief Fiscal Officer of the State.”

Acts 2007, No. 1419, § 22, provided: “CLAIMS FROM CASH FUNDS. In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a non-revenue receipt into the Miscellaneous Revolving Fund from which he shall disburse the amount of the claim to the claimant.”

Acts 2007, No. 1419, § 23, provided: “EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.”

Acts 2007, No. 1419, § 24, provided: “CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds ten thousand dollars (\$10,000) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency’s liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission.”

19-10-214. Effect on liens.

(a) Arkansas State Claims Commission awards are state property and therefore liens may not attach to commission awards, nor may an award be assigned.

(b) If the commission and the General Assembly approve appeals or claims above seven thousand five hundred dollars (\$7,500) and name as payees, in addition to the claimant, other individuals or entities who would normally have liens in a court of law, other than insurance company claims for subrogation, then the commission may deposit the amount approved in the registry of the Pulaski County Circuit Court. After reasonable notice to the claimant and any named payees, the court shall establish the validity and priority to the moneys upon petition of the claimant or any named payee.

History. Acts 1999, No. 685, § 1.

19-10-215. Restrictions on awards.

(a) With the exception of death and disability benefit claims paid under § 21-5-701 et seq., no award may be paid in excess of ten thousand dollars (\$10,000).

(b) If the award is greater than ten thousand dollars (\$10,000), the claim shall be referred to the General Assembly for an appropriation.

History. Acts 1999, No. 1141, § 4; 2003, No. 926, § 4.

Amendments. The 2003 amendment added the subsection designations; and

substituted "ten thousand dollars (\$10,000)" for "seven thousand five hundred dollars (\$7,500)" in (a) and (b).

SUBCHAPTER 3 — EFFECT OF INSURANCE COVERAGE

SECTION.

19-10-301. Definitions.

19-10-302. Exhaustion of remedies against insurer.

19-10-303. Reduction of award.

19-10-304. Subrogation claims not heard.

SECTION.

19-10-305. Immunity of state officers and employees — Status as employee.

19-10-306. Res judicata or collateral estoppel.

Effective Dates. Acts 1981, No. 586, § 8: Mar. 18, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Claims Commission does not now hear claims when the injured party has received partial compensation from an insurer; that such policy is inequitable and that this Act is immediately necessary to provide such equitable treatment. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 542, § 11: Mar. 14, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that a recent court decision has led to uncertainty in the area of immunity under existing Arkansas Code provisions; that to clarify such provisions will allow those persons to avoid needless legal expenses resulting from the possible misinterpretation of the law. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after its passage and approval."

Acts 1993, No. 292, § 7: Mar. 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that a recent court decision regarding Act 542 of 1991 has led to uncertainty and confusion in the area of immunity of officials and employees of the state and local government of Arkansas; that this act is necessary to clarify the application and immunities of Act 542 of 1991 and to avoid the unintended interpretation of Act 542 as permitting suits directly against the liability insurers for state and local government officials and employees; and that it is necessary to extend its coverage retroactively to the effective date of Act 542 of 1991. Therefore, in order to prevent the misinterpretation of law, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1567, § 28: July 1, 1999. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the United

States Congress has amended the laws pertaining to certain federally funded public assistance programs; that these programs are crucial to the life and health of many needy citizens of the State of Arkansas who otherwise will be unable to obtain food, clothing, shelter, or medical care; that federal funds have already been appropriated for this program and any delays could work irreparable harm upon

the proper administration of essential governmental programs and the State of Arkansas may risk forfeiture of the federal funding; that this act so provides. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on July 1, 1999."

RESEARCH REFERENCES

Ark. L. Rev. Case Notes, *Bly v. Young*, *Beaulieu v. Gray*, and *Carter v. Bush*: The

Arkansas State Employee Immunity Trilogy, 41 *Ark. L. Rev.* 893.

19-10-301. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Insurer" means every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance; and

(2) "Subrogation claim" means any claim filed with the Arkansas State Claims Commission by an insurer or its insured, or both, to recover money paid or owed by an insurer to any individual under a contract of insurance.

History. Acts 1981, No. 586, § 1; A.S.A. 1947, § 13-1416.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Civil Procedure, 8 *U. Ark. Little Rock L.J.* 555.

19-10-302. Exhaustion of remedies against insurer.

(a) The Arkansas State Claims Commission shall not dismiss a claim with prejudice on grounds that the claimant has received or is due benefits under a policy of insurance. However, the commission shall hear no claim until the claimant has exhausted all remedies against insurers, including the claimant's insurer.

(b) Every claim filed with the commission shall be accompanied by a sworn affidavit, on a form to be provided by the commission, signed by the claimant and witnessed by the claimant's insurer and legal counsel, if any, that the claimant has exhausted all remedies against insurers, including the claimant's insurer. The affidavit shall further state the total amount of insurance benefits paid to the claimant.

History. Acts 1981, No. 586, § 2; A.S.A. 1947, § 13-1417.

19-10-303. Reduction of award.

(a) If the Arkansas State Claims Commission awards damages to a claimant who has received benefits under any policy of insurance, the premium of which has not been paid by or on behalf of the claimant, the commission shall reduce its award by the amount of insurance benefits received by the claimant.

(b) The commission shall not reduce awards for damages to a claimant who has received benefits under a policy of insurance, the premium of which has been paid by or on behalf of the claimant.

History. Acts 1981, No. 586, § 3; A.S.A. 1947, § 13-1418.

19-10-304. Subrogation claims not heard.

The Arkansas State Claims Commission shall not hear subrogation claims. This fact shall in no way alter or vary the operation or coverage of §§ 21-9-201 — 21-9-205.

History. Acts 1981, No. 586, § 4; A.S.A. 1947, § 13-1419.

19-10-305. Immunity of state officers and employees — Status as employee.

(a) Officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.

(b) For purposes of this chapter, agreements between the State of Arkansas and a state of the United States or the District of Columbia entered into pursuant to the Interlocal Cooperation Act, § 25-20-101 et seq., shall confer status of an employee for purposes of this chapter on persons acting pursuant to such agreement.

(c) For purposes of this chapter, persons acting individually or on behalf of charitable organizations, other than motor carriers as defined by § 23-13-203(a)(13), shall have the status of an employee while transporting persons as a service of the Transitional Employment Assistance Program.

History. Acts 1981, No. 586, § 5; A.S.A. 1947, § 13-1420; Acts 1989, No. 989, § 1; 1991, No. 542, § 6; 1993, No. 292, § 1; 1999, No. 1567, § 23.

A.C.R.C. Notes. Acts 1993, No. 292, § 3, provided: "This act shall have a retroactive application to the effective date of Act 542 of 1991 to avoid the mis-

interpretation of the intent of Act 542 as permitting suits directly against liability insurers of state and local government officials and employees. This act is intended to have retroactive effect so as to apply to any suits pending as of the effective date of this act."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—
Torts, 11 U. Ark. Little Rock L.J. 261.

CASE NOTES

ANALYSIS

Constitutionality.
In General.
Consent of State.
Employees Held Immune.
Jurisdiction.
Liability Insurance of Employee.
Malicious Conduct.

Constitutionality.

Application of the 1993 amendment would not constitute an unconstitutional retroactive application to any suit pending at time of amendment's effective date as the amendment simply added the clause "except to the extent that they be covered by liability insurance" to qualify an employee's immunity. *National Bank of Commerce v. Quirk*, 323 Ark. 769, 918 S.W.2d 138 (1996), amended in part, 325 Ark. 31, 922 S.W.2d 717 (Ark. 1996), overruled in part, *Ark. HHS v. Ahlborn*, 126 S. Ct. 1752, 164 L. Ed. 2d 459 (U.S. 2006).

In General.

If officers and employees of the State of Arkansas act without malice and within the scope of their employment, they are immune from an award of damages in litigation. *Smith v. Denton*, 320 Ark. 253, 895 S.W.2d 550 (1995).

The concept of sovereign immunity is well grounded in Arkansas law. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

By enacting subsection (a) of this section, the General Assembly did not intend to repeal § 19-10-305(a); repeal by implication is not favored and the sections can be read in harmony. *Robinson v. Langdon*, 333 Ark. 662, 970 S.W.2d 292 (1998).

Consent of State.

Where a suit is brought against an officer or agency with relation to some matter in which defendant represents the state in action and liability, and the state, while not a party to the record, is the real party against which relief is sought so that a judgment for plaintiff, although

nominally against the named defendant as an individual or entity distinct from the state, will operate to control the action of the state or subject it to liability, the suit is in effect one against the state and cannot be maintained without its consent. *Assaad-Faltas v. University of Ark. for Medical Sciences*, 708 F. Supp. 1026 (E.D. Ark. 1989), *aff'd* without op., 902 F.2d 1572 (8th Cir. Ark. 1990).

Employees Held Immune.

Where an action was filed against employees of the state, those employees were immune from civil liability for nonmalicious acts occurring within the course of their employment under this section. *Beaulieu v. Gray*, 288 Ark. 395, 705 S.W.2d 880 (Ark. 1986).

Where plaintiffs sued three state employees for acts performed in their official capacities, the action was tantamount to an action against the State of Arkansas; sovereign immunity, therefore, applied and protected not only the State but its employees as well. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

A wildlife officer acting within the scope of his employment was immune from liability for his entry onto the defendant's property and damages caused thereby. *Rainey v. Hartness*, 339 Ark. 293, 5 S.W.3d 410 (1999).

Employees of the Department of Community Punishment were entitled to immunity with regard to the termination of employment of parole officer, without regard to whether they acted maliciously or outside the scope of their employment, since the parole officer was an at-will employee and could be terminated for any reason or no reason at all. *Ball v. State Dep't of Community Punishment*, 340 Ark. 424, 10 S.W.3d 873 (2000).

In an inmate's civil rights suit involving a prison grooming policy, the prison officials were personally immune from suit because they did not, in enacting and enforcing the grooming policy, violate clearly established principles of law of

which a reasonable person would have knowledge. *Fegans v. Norris*, 351 Ark. 200, 89 S.W.3d 919 (2002).

State trooper was immune in his individual capacity under subsection (a) of this section due to the non-malicious nature of the actions involved; the trooper contended that he was merely conducting a pat-down on a passenger in a car after the driver was arrested for an outstanding warrant. The complaint contained mere allegations of maliciousness and sexual intent. *Simons v. Marshall*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 258 (Apr. 26, 2007).

Jurisdiction.

Where the complaint alleged that defendant intentionally deprived plaintiff of employment without just cause and for personal motives, the trial court had jurisdiction to hear the claim against defendant in both his individual and official capacities. *Cross v. Arkansas Livestock & Poultry Comm'n*, 328 Ark. 255, 943 S.W.2d 230 (1997).

Liability Insurance of Employee.

Employee of the state may be held liable for an act done in the performance of his duties as a state employee to the extent the employee carries liability insurance. *Bly v. Young*, 293 Ark. 36, 732 S.W.2d 157 (1987).

Physician who worked part-time for the Arkansas Department of Health could be held liable for damages resulting from the improper insertion of an intrauterine device to the extent that he carried liability insurance. *Bly v. Young*, 293 Ark. 36, 732 S.W.2d 157 (1987).

Malicious Conduct.

This section, conferring immunity to officers and employees does not protect them if they act maliciously; however, a bare allegation of willful and wanton conduct will not suffice to allege facts sufficient to support the claim of malicious conduct. *Beaulieu v. Gray*, 288 Ark. 395, 705 S.W.2d 880 (Ark. 1986).

This section does not protect state employees if they act maliciously, and under Arkansas law, statements made with actual malice include not only those made with spite, hatred, or vindictiveness, but also those made with such reckless disregard of the rights of another as to constitute the equivalent of ill will. *Bland v.*

Verser, 299 Ark. 490, 774 S.W.2d 124 (1989).

The defendant government officials were not immune from suit under the doctrine of sovereign immunity since sufficient allegations of malicious conduct were alleged in the complaint where the plaintiff alleged that the defendants conspired to have him arrested for the malicious purpose of embarrassing him and damaging his professional reputation and with knowledge that no probable cause existed; that the allegations in the arrest warrant were false, and that no prosecution would ensue. *Heigle v. Miller*, 332 Ark. 315, 965 S.W.2d 116 (1998).

The exception for malicious conduct did not apply to an action arising from a motor vehicle accident which occurred because of the absence of a stop sign at an intersection, notwithstanding that the absence of the sign had been reported to the appropriate state agency two days earlier and the contention that the defendant state employees knew, or should have known, that the failure to replace the stop sign could naturally and foreseeably result in death or serious bodily injury through automobile accidents. *Fuqua v. Flowers*, 341 Ark. 901, 20 S.W.3d 388 (2000).

The exception for malicious conduct did not apply to an action arising from a motor vehicle accident which occurred because of the absence of a stop sign at an intersection, notwithstanding that the absence of the sign had been reported to the appropriate state agency two days earlier and the contention that the defendant state employees knew, or should have known, that the failure to replace the stop sign could naturally and foreseeably result in death or serious bodily injury through automobile accidents. *Fuqua v. Flowers*, 341 Ark. 901, 20 S.W.3d 388 (2000).

Plaintiff faculty member's state law claims against the individual university defendants in their individual capacities sufficiently alleged facts which would warrant submission of the issue of malice to the trier of fact where plaintiff alleged defendants conspired to discredit her work and subjected her to more stringent performance evaluations than her male colleagues. *Okruhlik v. Univ. of Ark.*, — F. Supp.2d —, 2000 U.S. Dist. LEXIS 22665 (W.D. Ark. Aug. 17, 2000).

Appellees were entitled to statutory immunity as it was obvious that plaintiff, who alleged that his civil rights were violated while appellees subjected him to the practical skills part of the Arkansas Emergency Medical Technician Practical Examination, failed to allege liability coverage or show that appellees committed any malicious act or omission in the course of their employment. *Hanks v. Sneed*, 366 Ark. 371, — S.W.3d — (2006).

Cited: *Carter v. Bush*, 296 Ark. 261, 753 S.W.2d 534 (1988); *Cousins v. Dennis*,

298 Ark. 310, 767 S.W.2d 296 (1989); *City of Little Rock v. Weber*, 298 Ark. 382, 767 S.W.2d 529 (1989); *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771 (1990); *Cundiff v. Crider*, 303 Ark. 120, 792 S.W.2d 604 (1990); *Burk v. Beene*, 948 F.2d 489 (8th Cir. 1991); *Qualls v. Ferritor*, 329 Ark. 235, 947 S.W.2d 10 (1997); *Grine v. Board of Trustees*, 338 Ark. 791, 2 S.W.3d 54 (1999); *Okruhlik v. Univ. of Ark.*, 255 F.3d 615 (8th Cir. 2001); *Smith v. Brt*, 363 Ark. 126, 211 S.W.3d 485 (2005).

19-10-306. Res judicata or collateral estoppel.

If an individual commences a civil action in any court of law or equity within this state which arises out of the same subject matter or occurrence that is the subject matter of a complaint before the Arkansas State Claims Commission, the commission shall recognize any final judgment or order rendered in the civil action as a bar to further consideration of the claim in accordance with principles of res judicata and collateral estoppel.

History. Acts 1981, No. 586, § 6; A.S.A. 1947, § 13-1421.

SUBCHAPTER 4 — WORKERS' COMPENSATION COMMISSION

SECTION.

- 19-10-401. Reports of personal injury or death.
- 19-10-402. Jurisdiction and procedure.
- 19-10-403. Workers' Compensation Revolving Fund.

SECTION.

- 19-10-404. State deemed self-insurer.
- 19-10-405. Awards and expenses.
- 19-10-406. Report of findings.

Effective Dates. Acts 1949, No. 462, § 17: approved Mar. 28, 1949. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the pay-

ment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1963, No. 521, § 2: Mar. 19, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that under the present law there is some doubt as to whether the Workmen's Compensation Commission has jurisdiction of claims for injuries to or death of officers of the State, and that it is imperative that this ambiguity be clarified immediately. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval.”

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Arkansas
Law Survey, Roberts and Deere, Torts, 8
U. Ark. Little Rock L.J. 207.

19-10-401. Reports of personal injury or death.

All state officers, heads of agencies, departments, and institutions shall file a report with the Workers' Compensation Commission, within ten (10) days after knowledge of any personal injury or death of any employee of the state or any of its agencies, departments, or institutions. This report shall be made on forms approved by the commission and shall give the date, place, and time of day of any such injury or death, briefly stating the circumstances and extent thereof, the name of the injured or deceased person, and the names of any and all witnesses.

History. Acts 1949, No. 462, § 10;
1951, No. 373, § 6; A.S.A. 1947, § 13-
1410.

19-10-402. Jurisdiction and procedure.

(a)(1) The Workers' Compensation Commission shall have exclusive jurisdiction, as limited in this subchapter, of all claims against the State of Arkansas and its several agencies, departments, and institutions for personal injuries and deaths of employees and officers of the State of Arkansas and its agencies, departments, and institutions arising out of and in the course of employment or service.

(2)(A) Awards for these injuries and deaths shall be made by the commission in the same amounts and on the same terms and conditions as if such injuries and deaths had arisen out of and in the course of private employment covered by the Workers' Compensation Law, § 11-9-101 et seq.

(B) The procedure to be followed in the presentation, hearing, and determination of claims shall, in all respects, be the same as in claims for compensation for injuries and deaths arising out of and in the course of private employment covered by the Workers' Compensation Law, § 11-9-101 et seq.

(b) The General Assembly shall at each biennial session appropriate, from such sources as it may see fit, a sum sufficient to satisfy such claims as are or probably will be payable during the following fiscal biennium under awards made under this section. The commission shall direct the distributions of this fund and make disbursements upon the vouchers issued against it.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407.

CASE NOTES

ANALYSIS

Constitutionality.
Effect of Release.
Reduction of Benefits.
School District Employees.
Teachers.

Constitutionality.

This section, which simply makes the Arkansas Workers' Compensation Commission a "claims commission" in connection with claims by state employees for injuries or death growing out of their employment by the state and provides that, in administering its duties in connection with such claims, the Workers' Compensation Commission shall apply the compensation law as it relates to private industry, does not violate the equal protection clauses of the state or federal constitutions. *Boshears v. Arkansas Racing Comm'n*, 258 Ark. 741, 528 S.W.2d 646 (1975).

Effect of Release.

Where a third party suit to determine the right to insurance payment, joined in by widow, other heirs, and administrators of deceased highway employee, resulted in a consent judgment for \$10,000, and a release thereafter executed by the administrators recited receipt of \$10,000, but stated that it did not include \$3,000 received by widow from the insurer of the

highway department, and \$10,000 was prorated by heirs under family settlement, only the widow was entitled to the \$3,000 as the other heirs were estopped by the release. *Jenkins v. Jenkins*, 219 Ark. 547, 243 S.W.2d 646 (1951).

Reduction of Benefits.

Any amounts which a state employee received from state under this section would reduce the benefits payable under an uninsured motorist provision of an insurance policy providing for a reduction for amounts received under workers' compensation law, disability benefits law, or any similar law. *Edmundson v. Commercial Union Ins. Co.*, 249 Ark. 350, 459 S.W.2d 112 (1970).

School District Employees.

A school district is not an agency of the state, and its employees are not state employees within the meaning of this section. *Muse v. Prescott Sch. Dist.*, 233 Ark. 789, 349 S.W.2d 329 (1961).

Teachers.

Teachers employed by a school district do not come within the purview of this section. *Muse v. Prescott Sch. Dist.*, 233 Ark. 789, 349 S.W.2d 329 (1961).

Cited: *Parish v. Pitts*, 244 Ark. 1239, 429 S.W.2d 45 (1968); *Arkansas State Hwy. & Transp. Dep't v. Godwin*, 270 Ark. 743, 606 S.W.2d 127 (1980); *Dinning v. Wills*, 4 B.R. 475 (E.D. Ark. 1980).

19-10-403. Workers' Compensation Revolving Fund.

(a) There is created in the State Treasury a special fund to be known as the Workers' Compensation Revolving Fund. All sums appropriated by the General Assembly pursuant to this subchapter shall be deposited by the Treasurer of State to the account of this special fund.

(b) The Workers' Compensation Commission shall draw all vouchers against this fund in payment of awards made by it under this subchapter.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407.

CASE NOTES

Cited: Parish v. Pitts, 244 Ark. 1239, 743, 606 S.W.2d 127 (1980); Dinning v. 429 S.W.2d 45 (1968); Arkansas State Wills, 4 B.R. 475 (E.D. Ark. 1980). Hwy. & Transp. Dep't v. Godwin, 270 Ark.

19-10-404. State deemed self-insurer.

For the purposes of this subchapter, the State of Arkansas shall be considered a self-insurer and shall be exempt from all fees and tax as such.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407.

CASE NOTES

Cited: Parish v. Pitts, 244 Ark. 1239, 743, 606 S.W.2d 127 (1980); Dinning v. 429 S.W.2d 45 (1968); Arkansas State Wills, 4 B.R. 475 (E.D. Ark. 1980). Hwy. & Transp. Dep't v. Godwin, 270 Ark.

19-10-405. Awards and expenses.

In the event an award is made, the Workers' Compensation Commission shall immediately take the necessary steps to pay the award and all expenses incidental to the claim from any funds previously made available by the General Assembly for such purpose.

History. Acts 1949, No. 462, § 9; 1951, No. 373, § 5; A.S.A. 1947, § 13-1409.

CASE NOTES

Cited: Boshears v. Arkansas Racing Comm'n, 258 Ark. 741, 528 S.W.2d 646 (1975).

19-10-406. Report of findings.

Upon the allowance or disallowance of any claim, the Workers' Compensation Commission shall immediately transmit a copy of its findings to the Director of the Department of Finance and Administration and interested parties.

History. Acts 1949, No. 462, § 9; 1951, No. 373, § 5; A.S.A. 1947, § 13-1409.

CASE NOTES

Cited: Boshears v. Arkansas Racing Comm'n, 258 Ark. 741, 528 S.W.2d 646 (1975).

CHAPTER 11
PURCHASING AND CONTRACTS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. ARKANSAS PROCUREMENT LAW.
- 3. BIDDING — STATE INDUSTRY PRIORITY.
- 4. BIDDING — BONDS. [REPEALED.]
- 5. PURCHASES OF WORKSHOP-MADE PRODUCTS AND SERVICES. [REPEALED.]
- 6. FEDERAL GOVERNMENT SURPLUS PROPERTY.
- 7. ETHICS.
- 8. PROCUREMENT OF PROFESSIONAL SERVICES.
- 9. PURCHASES OF DISABLED WORK CENTER PRODUCTS AND SERVICES.
- 10. PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS.
- 11. PURCHASE OF TECHNOLOGY SYSTEMS.
- 12. GUARANTEED ENERGY COST SAVINGS ACT.

RESEARCH REFERENCES

A.L.R. Bid on public contract, right to rescind based on mistake. 2 A.L.R.4th 991.

Statute prohibiting award of government contract to person or business entity previously convicted of bribery or attempting to bribe state public employee. 7 A.L.R.4th 1202.

Waiver of competitive bidding require-

ments. 40 A.L.R.4th 968.

Amount of appropriation as limitation on damages for breach of contract recoverable by one contracting with government agency. 40 A.L.R.4th 998.

Am. Jur. 64 Am. Jur. 2d, Pub. Works, § 8 et seq.

C.J.S. 72 C.J.S. Supp., Pub. Contr., § 1 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-11-101. Responsibility of disbursing officer — Maintenance of files by Office of State Procurement.
- 19-11-102. Use of soybean ink in state printing.

SECTION.

- 19-11-103. Penalty for violation of law.
- 19-11-104. Equal Opportunity Policy.
- 19-11-105. Illegal immigrants — Prohibition — Public contracts for services.

Cross References. Auditor of State, § 25-16-501 et seq.

Effective Dates. Acts 1993, No. 1224, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in

this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

19-11-101. Responsibility of disbursing officer — Maintenance of files by Office of State Procurement.

(a) The disbursing officer of each agency, board, commission, department, or institution shall be responsible for reviewing all invoices prepared by commercial printers or suppliers holding commercial contracts to make certain that the charges to the agency, board, commission, department, or institution are proper under the terms of the contract.

(b) The Office of State Procurement of the Department of Finance and Administration shall maintain complete files that shall be open to public inspection on all commercial term and one-time contracts. The files shall contain:

(1) A copy of the contract;

(2) A list of all printing or duplicating done or commodities ordered, as well as the name of the invoiced agency; and

(3) A copy of all correspondence regarding the contract or jobs performed thereunder.

History. Acts 1993, No. 1224, § 5; 2007, No. 478, § 1.

Acts 1981, No. 600, § 30; A.S.A. 1947, § 14-295.

Publisher's Notes. Former § 19-11-101 was repealed by Acts 1993, No. 1224, § 6. The former section was derived from

Amendments. The 2007 amendment deleted former (b)(4) and made related changes.

19-11-102. Use of soybean ink in state printing.

Notwithstanding any law, rule, or regulation to the contrary, all printing which is chargeable to or which is paid for with funds appropriated wholly or in part by the state, or any state department, division, bureau, board, commission, or agency, shall be printed in soybean ink; provided, however, that the soybean ink is comparable in price to other inks, and that it is equally suitable for use.

History. Acts 1991, No. 630, § 1.

No. 536, § 1. The former section was derived from Acts 1981, No. 600, § 30;

Publisher's Notes. Former § 19-11-102, concerning consulting contracts with state agencies, was repealed by Acts 1987,

A.S.A. 1947, § 14-295.

19-11-103. Penalty for violation of law.

Any person who is found by a court of law to have knowingly violated any state law in conjunction with the performance or acquisition of a contract with the state shall be ineligible to contract with the state for a period of three (3) years.

History. Acts 1997, No. 1155, § 1.

19-11-104. Equal Opportunity Policy.

(a) The purpose of this section is to require any entity or person bidding on a state contract, responding to a request for proposals regarding a state contract, responding to a request for qualifications regarding a state contract, or negotiating a contract with the state for professional or consulting services to submit to the Office of State Procurement of the Department of Finance and Administration the most current equal opportunity policy of the entity or person.

(b) The office and a state agency shall require a copy of the most current equal opportunity policy of an entity or person to be filed with the office or state agency for public inspection as a condition precedent to:

(1) Accepting a letter of intent, bid, proposal, or statement of qualification with regard to a state contract from the entity or person; or

(2) Entering negotiations with the entity or person for a professional or consulting services contract with the state.

History. Acts 2005, No. 2157, § 1.

19-11-105. Illegal immigrants — Prohibition — Public contracts for services.

(a) As used in this section:

(1) “Contractor” means a person having a public contract with a state agency for professional services, technical and general services, or any category of construction in which the total dollar value of the contract is twenty-five thousand dollars (\$25,000) or greater;

(2) “Exempt agency” means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Arkansas Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(3) “Illegal immigrants” means any person not a citizen of the United States who has:

(A) Entered the United States in violation of the federal Immigration and Naturalization Act or regulations issued under the act;

(B) Legally entered but without the right to be employed in the United States; or

(C) Legally entered subject to a time limit but has remained illegally after expiration of the time limit;

(4) “Professional services contract” means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary;

(5) "Public contract for services" means any type of agreement between a state agency and a contractor for the procurement of services and all categories of construction with a state agency in which the total dollar value of that contract is twenty-five thousand dollars (\$25,000) or greater;

(6)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency under subdivision (a)(7)(B) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

(7)(A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including without limitation work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.

(b) No state agency may enter into or renew a public contract for services with a contractor who knows that the contractor or a subcontractor employs or contracts with an illegal immigrant to perform work under the contract.

(c) Before executing a public contract, each prospective contractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the contractor at the time of the certification does not employ or contract with an illegal immigrant.

(d)(1) If a contractor violates this section, the state shall require the contractor to remedy the violation within sixty (60) days.

(2)(A) If the contractor does not remedy the violation within the sixty (60) days specified under subdivision (d)(1) of this section, the state shall terminate the contract for breach of the contract.

(B) If the contract is terminated under subdivision (d)(2)(A) of this section, the contractor shall be liable to the state for actual damages.

(e)(1)(A) If a contractor uses a subcontractor at the time of certification, the subcontractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the subcontractor at

that time of certification does not employ or contract with an illegal immigrant.

(B) A subcontractor shall submit the certification required under subdivision (e)(1)(A) of this section within thirty (30) days after the execution of the subcontract.

(2) The contractor shall maintain on file the certification of the subcontractor throughout the duration of the term of the contract.

(3) If the contractor learns that a subcontractor is in violation of this section, the contractor may terminate the contract with the subcontractor, and the termination of the contract for a violation of this section shall not be considered a breach of the contract by the contractor and subcontractor.

History. Acts 2007, No. 157, § 1.

SUBCHAPTER 2 — ARKANSAS PROCUREMENT LAW

SECTION.

- 19-11-201. Title.
- 19-11-202. Purposes and policies.
- 19-11-203. Definitions generally.
- 19-11-204. Definitions concerning source selection and contract formation.
- 19-11-205. Definitions concerning commodity management.
- 19-11-206. Definitions concerning inter-governmental relations.
- 19-11-207. Applicability.
- 19-11-208. Exemptions.
- 19-11-209. Construction.
- 19-11-210. Operation of other laws.
- 19-11-211. Obligation of good faith.
- 19-11-212. Existing contracts.
- 19-11-213. Federal assistance requirements.
- 19-11-214. Determinations and findings.
- 19-11-215. Office of State Procurement.
- 19-11-216. State Procurement Director.
- 19-11-217. Powers and duties of State Procurement Director.
- 19-11-218. Assistants and designees.
- 19-11-219. Legal counsel.
- 19-11-220. Agency procurement officials.
- 19-11-221. Agency procurement official for Department of Correction.
- 19-11-222. Exclusive jurisdiction over procurement.
- 19-11-223. Commodities, technical and general services, and professional and consultant services under state contract.
- 19-11-224. Interest and carrying charges.

SECTION.

- 19-11-225. Regulations.
- 19-11-226. Recommendations.
- 19-11-227. Statistical data.
- 19-11-228. Methods of source selection.
- 19-11-229. Competitive sealed bidding.
- 19-11-230. Competitive sealed proposals.
- 19-11-231. Small procurements.
- 19-11-232. Proprietary or sole source procurements.
- 19-11-233. Emergency procurements.
- 19-11-234. Competitive bidding.
- 19-11-235. Responsibility of bidders and offerors.
- 19-11-236. Prequalification of suppliers.
- 19-11-237. Cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee contracts.
- 19-11-238. Multiyear contracts.
- 19-11-239. Finality of determinations.
- 19-11-240. Reporting of suspected collusion.
- 19-11-241. Specifications.
- 19-11-242. Commodity management regulations.
- 19-11-243. Proceeds from surplus commodities.
- 19-11-244. Resolution of protested solicitations and awards.
- 19-11-245. Debarment or suspension.
- 19-11-246. Resolution of contract and breach of contract controversies.
- 19-11-247. Remedies for unlawful solicitation or award.
- 19-11-248. Finality of administrative determinations.
- 19-11-249. Cooperative purchasing.

SECTION.

- 19-11-250. Sale, etc., of commodities.
- 19-11-251. Intergovernmental use of commodities or services.
- 19-11-252. Rules and regulations.
- 19-11-253. Joint use of facilities.
- 19-11-254. State information services.
- 19-11-255. Use of payments received.
- 19-11-256. Compliance by public procurement units.
- 19-11-257. Review of procurement requirements.
- 19-11-258. Contract controversies.
- 19-11-259. Preferences among bidders.
- 19-11-260. Recycled paper products — Preference.

SECTION.

- 19-11-261. Cooperative purchase of paper products for local governments.
- 19-11-262. Multiple award contracts.
- 19-11-263. Special procurements.
- 19-11-264. Submission of contracts with members of the General Assembly required.
- 19-11-265. Submission of contracts required.
- 19-11-266. High efficiency lighting — Preference.

Cross References. Restrictions on expenditures by institutions of higher education, § 6-63-301 et seq.

Effective Dates. Acts 1979, No. 482, § 79: effective at 12:01 a.m., July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that the proper and effective management and control of State finances requires that the provisions of this Act be implemented at the commencement of the next biennium and this Act being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Act shall become effective at 12:01 a.m. on July 1, 1979."

Acts 1981, No. 240, § 6: Feb. 27, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Department of Correction should be allowed to have its own purchasing agent for the sole purpose of procuring perishable food items; that the law regarding the letting of contracts for the lease and purchase of farm machinery and equipment by the Board of Correction is in need of revision; and that this Act is immediately necessary to accomplish such purposes. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 600, § 32: Mar. 20, 1981. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that the State Purchasing Law is in immediate need of revision to bring the same into compliance with court orders, and that this Act is designed to make such needed revisions, and the immediate passage hereof is necessary to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 517, § 4: Mar. 17, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Purchasing Law is in immediate need of revision to bring the administrative structure and reporting requirements of the Office of State Purchasing into organizational conformity with the other offices within the Department of Finance and Administration for the purpose of proper and effective management and control of the Department of Finance and Administration, and that this Act is designed to make such needed revisions, and the immediate passage hereof is necessary to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 760, § 4: Mar. 24, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas firms engaged in

the printing, stationery and office supply business are unnecessarily discriminated against by the omission of such firms from the benefits of the Arkansas Preference Law. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 983, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Purchasing Law currently contains no exemption for medical items used for the treatment and diagnosis of patients and purchased through a group purchasing entity; that considerable savings can be effected in many instances if such medical items are exempt from the State Purchasing Law; that this Act is designed to provide such exemption and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 57, § 4: Feb. 14, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state purchasing law apparently does not now apply to non-profit corporations under contract with the Department of Human Services to provide services to people with developmental disabilities; that the functions performed by these non-profit corporations are a governmental function and therefore those entities should be included in a definition of 'state agencies' for purposes of the state purchasing law; that this Act accomplishes the same; and that in order to make the state purchasing law applicable to those non-profit corporations as soon as possible, that this Act should be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 45, § 4: Nov. 14, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present bidder's preference law requires the Ar-

kansas bidder to have paid Arkansas unemployment taxes; that some employers are exempt from paying unemployment taxes and therefore the requirement should not apply in those instances; that this Act will change the bidder's preference law to not disqualify an Arkansas firm who does not pay unemployment taxes because of being exempt therefrom; and that this Act should go into effect immediately in order to correct the inequity as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 263, § 5: Feb. 26, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law provides that in public purchasing of commodities, Arkansas bidders who have an established business in and are paying state and local taxes in Arkansas, are to be given a five percent preference over out-of-state bidders who maintain no established business facility in the state and who are not paying state and local taxes in Arkansas; that this law which was obviously enacted to benefit Arkansas businesses now appears to be having the opposite effect due to the fact that some states have reciprocated by penalizing Arkansas businesses which bid on public contracts for commodities in those states, and some state agencies simply refuse to do business with Arkansas businesses because of the Arkansas preference law; and that it is in the overall best interest of Arkansas businesses that this preference be abolished as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 678, § 6: Mar. 24, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law authorizing a bidders preference for the purchase of commodities by public agencies should be narrowed; that this act results in narrowing that law; that a substantial amount of commodity purchasing will occur within the next three (3) months; and that this

act should go into effect immediately in order that its application will apply to purchases as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 912, § 5: Apr. 5, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state is hampered in the execution of its duties by the inability to use lease/purchase agreements to procure essential commodities and services. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 179, § 38: Feb. 17, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Public Health, Welfare, and Labor and in its place established the House Interim Committee and Senate Interim Committee on Public Health, Welfare, and Labor; that various sections of the Arkansas Code refer to the Joint Interim Committee on Public Health, Welfare, and Labor and should be corrected to refer to the House and Senate Interim Committees on Public Health, Welfare, and Labor; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved

nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1237, § 49: Apr. 2, 2001. Emergency clause provided: "It is found and determined by the General Assembly that recent advances in technology require that the State Purchasing law be amended to allow electronic procurement and the use of electronic media in the bidding process. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1309, § 2 Apr. 5, 2001. Emergency clause provided: "It is found and determined by the General Assembly that this measure is necessary to clarify the state's purchasing law and to prevent disruptions in the orderly conduct of business by agencies of the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

19-11-201. Title.

This subchapter shall be referred to as the "Arkansas Procurement Law".

History. Acts 1979, No. 482, § 1; A.S.A. 1947, § 14-233; Acts 2001, No. 1237, § 1.

Publisher's Notes. Acts 1979, No. 482, § 7, provided that this subchapter applies

only to contracts solicited or entered into after July 1, 1979, unless the parties agree to its applicability to a contract entered into prior to this date.

CASE NOTES

Cited: Milligan v. Burrow, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

19-11-202. Purposes and policies.

The underlying purposes and policies of this subchapter are to:

(1) Simplify, clarify, and modernize the law governing procurement by this state;

(2) Permit the continued development of procurement policies and practices;

(3) Provide for increased public confidence in the procedures followed in public procurement;

(4) Ensure the fair and equitable treatment of all persons who deal with the procurement system of this state;

(5) Provide increased economy in state procurement activities by fostering effective competition; and

(6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

History. Acts 1979, No. 482, § 3; A.S.A. 1947, § 14-233.2.

19-11-203. Definitions generally.

As used in this subchapter:

(1)(A) "Agency procurement official" means any person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter and the regulations promulgated under it.

(B) "Agency procurement official" also includes an authorized representative acting within the limits of authority;

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3)(A) "Capital improvement" means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency.

(B) "Capital improvement" shall not include construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission, nor shall "capital improvement" include any building, facility, plant, structure, or other improvement

constructed by, or in behalf of, the Arkansas State Highway and Transportation Department or the State Highway Commission;

(4) "Commodities" means all property, including, but not limited to, equipment, printing, stationery, supplies, and insurance, but excluding leases on real property, real property, or a permanent interest in real property, exempt commodities and services, and capital improvements;

(5)(A) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

(B)(i) "Contract" includes awards and notices of award, contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type, contracts providing for the issuance of job or task orders, leases, letter contracts, and purchase orders.

(ii) "Contract" also includes supplemental agreements with respect to any of these items;

(6) "Contract modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract;

(7) "Contractor" means any person having a contract with a state agency;

(8) "Data" means recorded information, regardless of form or characteristic;

(9) "Debarment" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;

(10) "Designee" means a duly authorized representative of a person holding a superior position;

(11) "Electronic" means electrical, digital, magnetic, optical, or any other similar technology;

(12) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any agency;

(13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Arkansas Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(14) "Exempt commodities and services" means:

(A) Advertising in newspapers, periodicals, and related publications, and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C)(i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease may be

procured, with administrative approval, through a group purchasing entity serving other public health institutions when substantial savings are available.

(ii) A report shall be filed annually with the Division of Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

(D)(i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.

(ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;

(E) Commodities procured from nonprofit workshops in accordance with § 19-11-501 et seq. [repealed];

(F)(i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

(ii) These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt, that are to be furnished by the agency under any such contract;

(G) Contracts awarded by the Arkansas State Highway and Transportation Department for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

(H)(i) Farm products procured or sold by a state agency having an agency procurement official.

(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to do so in order to obtain the best price for the commodities procured or sold;

(I) Fees, including medical fees and physician fees;

(J) Foster care maintenance services provided by foster family homes approved by the Division of Children and Family Services of the Department of Human Services for children whose placement and care are the responsibility of the Division of Children and Family Services of the Department of Human Services;

(K) Freight and storage charges and demurrage;

(L) Licenses required prior to performance of services;

(M)(i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.

(ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;

(N) Livestock procured for breeding, research, or experimental purposes;

(O) Maintenance on office machines and technical equipment;

(P) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;

(Q) Membership in professional, trade, and other similar associations;

(R) Perishable foodstuffs for immediate use or processing;

(S) Postage;

(T) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of them;

(U) Services of visiting speakers, lecturers, and performing artists;

(V) Taxes;

(W) Travel expense items such as room and board and transportation charges;

(X) Utility services or equipment which is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(Y) Works of art for museum and public display;

(Z) Capital improvements valued at less than twenty thousand dollars (\$20,000), subject to minimum standards and criteria of the Arkansas Building Authority; and

(AA) Services related to work force development, incumbent work force training, or specialized business or industry training;

(15)(A)(i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law.

(ii) "Grant" does not include an award whose primary purpose is to procure an end product, whether in the form of commodities or services.

(B) A contract resulting from such an award is not a grant but a procurement contract;

(16) "May" means the permissive;

(17) "Paper product" means any item manufactured from paper or paperboard;

(18) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(19) "Political subdivisions" means counties, municipalities, and school districts;

(20)(A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;

(21) "Procurement agency" means any state agency that is authorized by this subchapter, by implementing regulations, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22)(A) "Procurement agent" means any person authorized by a state agency not having an agency procurement official to enter into and

administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter.

(B) "Procurement agent" also includes an authorized representative acting within the limits of authority;

(23)(A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling. Public funds as used in this subchapter shall not include funds administered by, or under the control of, agencies, except public funds.

(B) Without necessarily being limited thereto, "public funds" does not include grants, donations, research contracts, and revenues derived from self-supporting enterprises which are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury;

(24) "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and websites designated by the State of Arkansas and maintained for that purpose;

(25)(A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.

(B) "Purchase request" may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written or electronic determination and finding required by this subchapter;

(26) "Recycled paper" means paper which contains recycled fiber in a proportion specified by the State Procurement Director;

(27)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Arkansas Building Authority or higher education;

(28) "Shall" means the imperative;

(29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is:

(A) Unique to the person using it;

(B) Capable of verification;

(C) Under the sole control of the person using it; and

(D) Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

(30)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of

the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

(31)(A) "State contract" means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.

(B) The contract may apply to all or part of the state;

(32) "State Procurement Director" means the person holding the position created in § 19-11-216, as the head of the Office of State Procurement of the Department of Finance and Administration;

(33) "Suspension" means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and any legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance, which may lead to debarment;

(34)(A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including, but not limited to, work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.;

(35) "Using agency" means any state agency which utilizes any commodities or services purchased under this subchapter; and

(36) "Written" or "in writing" means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

History. Acts 1979, No. 482, § 12; 1981, No. 600, §§ 1-5; A.S.A. 1947, § 14-240; Acts 1987, No. 983, § 1; 1991, No. 128, § 1; 1991, No. 749, § 2; 1991, No. 1018, § 1; 1999, No. 1398, § 27; 2001, No. 961, § 7; 2001 No. 1237, § 2; 2001 No. 1568, § 1; 2003, No. 487, § 1; 2003, No. 1315, §§ 4-7; 2005, No. 1680, § 1; 2007, No. 478, § 2.

A.C.R.C. Notes. Acts 2005, No. 2123,

§ 30, provided: "PURCHASING DEFINITIONS. (Z) Commodities and services for use in research, education and treatment for the diagnosis, cure and prevention of disease may, with administrative approval, be procured through a group purchasing entity serving other public health institutions when substantial savings are available. A report shall be filed annually with the Division of Legislative

Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Amendments. The 2003 amendment by No. 487 added (14)(AA).

The 2003 amendment by No. 1315 rewrote (13); repealed former (14)(U) and redesignated the remaining subdivisions in (14) accordingly; added (14)(BB); rewrote (30)(A); and substituted "an exempt agency" for "exempt agencies" in (30)(B).

The 2005 amendment substituted "Division of the Legislative Audit" for "division of the Legislative Audit" in (14)(C)(ii); substituted "Arkansas Building Authority" for "Arkansas State Building Services or public institutions of" in (27)(B); deleted "departments" following "authority" in (30)(A); inserted present (34); and redesignated former (34) and (35) as present (35) and (36).

The 2007 amendment deleted former (14)(H) and redesignated the remaining subdivisions accordingly.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Environmental Law, 14 U. Ark. Little Rock L.J. 779.

19-11-204. Definitions concerning source selection and contract formation.

As used in this subchapter:

(1) "Competitive bidding" means the same as defined in § 19-11-234(a);

(2) "Competitive sealed bidding" means the same as defined in § 19-11-229(a);

(3) "Competitive sealed proposals, means the same as defined in § 19-11-230(a);

(4) "Emergency procurement" means the acquisition of commodities or services, which if not immediately initiated, will endanger human life or health, state property, or the functional capability of a state agency;

(5) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by a manufacturer or contractor;

(B) Is either published or otherwise available for inspection by customers; and

(C) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the commodities or services involved;

(6) "Invitation for bids" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in § 19-11-229, which refers to competitive sealed bidding;

(7) "Multiple award contracts" means a method of procurement whereby an indefinite quantity contract is awarded to more than one (1) supplier for furnishing a like item or category of items.

(8) “Purchase description” means specifications or any other document or electronic media describing the commodities or services to be procured;

(9) “Request for proposals” means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in § 19-11-230, which refers to competitive sealed proposals, § 19-11-231, which refers to small procurements § 19-11-232, which refers to proprietary or sole source procurements, § 19-11-233, which refers to emergency procurements, or § 19-11-234, which refers to competitive bidding;

(10)(A) “Request for qualifications” means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing.

(B) Other than as provided in § 19-11-801 et seq., the request for qualifications process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted;

(11) “Responsible bidder or offeror” means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance;

(12) “Responsive bidder” means a person who has submitted a bid under § 19-11-229, which refers to competitive sealed bidding, which conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation; and

(13)(A)(i) “Small procurements” means any procurement not exceeding a purchase price of five thousand dollars (\$5,000). Small purchases may be procured without seeking competitive bids or competitive sealed bids.

(ii) However, competition should be used to the maximum extent practicable.

(B) Items under state contract are excluded.

History. Acts 1979, No. 482, § 27; 1981, No. 600, § 11; A.S.A. 1947, § 14-252; Acts 1987, No. 540, § 1; 1995, No. 317, § 1; 1995, No. 340, § 1; 1995, No. 428, § 1; 1995, No. 507, § 1; 2001, No. 1237, § 3; 2007, No. 478, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by identical Acts 1995, Nos. 428 and 507. Subdivision (10) of this section was also amended by identical Acts 1995, Nos. 317 and 340, § 1, to read as follows:

“(10) ‘Small purchases’ means any procurement not exceeding a purchase price of one thousand dollars (\$1,000). Small purchases may be procured without seeking competitive bids or competitive sealed bids; however, competition should be used to the maximum extent practicable. Items under state contract are excluded.”

Amendments. The 2007 amendment added (10) and redesignated the remaining subdivisions accordingly; and made stylistic changes.

19-11-205. Definitions concerning commodity management.

As used in this subchapter:

(1) “Commodities” means, for purposes of this section, §§ 19-11-242 and 19-11-243, commodities owned by the state. See § 19-11-203, which refers to commodities;

(2) “Excess commodities” means any commodity, other than expendable commodities, having a remaining useful life but which the using agency in possession of the commodity has determined is no longer required by such agency;

(3) “Expendable commodities” means all tangible commodities other than nonexpendable commodities;

(4) “Nonexpendable commodities” means all tangible commodities having an original acquisition cost of more than two thousand five hundred dollars (\$2,500) per unit and a useful life of more than one (1) year; and

(5) “Surplus commodities” means any commodities, other than expendable commodities, no longer having any use to the state. This definition includes obsolete commodities, scrap materials, and nonexpendable commodities that have completed their useful life cycle.

History. Acts 1979, No. 482, § 54; substituted “cost of more than two thousand five hundred dollars (\$2,500) per unit” for “cost of over three hundred dollars (\$300) per unit” in (2).
A.S.A. 1947, § 14-275; Acts 2003, No. 487, § 2.

Amendments. The 2003 amendment

19-11-206. Definitions concerning intergovernmental relations.

As used in this subchapter:

(1) “Cooperative procurement” means procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity;

(2)(A) “External procurement activity” means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit.

(B) An agency of the federal government is an external procurement activity;

(3) “Local public procurement unit” means:

(A) Any county, city, town, state agency, and any other subdivision of the state or public agency thereof;

(B) Any fire protection district;

(C) Any regional water distribution district;

(D) Any rural development authority;

(E) Any public authority;

(F) Any public educational, health, or other institution;

(G) Any nonprofit corporation during the time that it contracts with the Department of Human Services to provide services to individuals with developmental disabilities or for transportation services, so long as the contract exceeds seventy-five thousand dollars (\$75,000) per year;

(H) Any nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area; and

(I) To the extent not prohibited by law, any other entity that expends public funds for the acquisition or leasing of commodities and services;

(4) “Public procurement unit” means either a local public procurement unit or a state public procurement unit; and

(5) “State public procurement unit” means the Office of State Procurement and any other procurement agency of this state.

History. Acts 1979, No. 482, § 64; A.S.A. 1947, § 14-281; Acts 1989, No. 57, § 1; 1997, No. 872, § 1; 1999, No. 41, § 1; 2001, No. 1237, § 4; 2007, No. 478, § 4.

Amendments. The 2007 amendment rewrote (3)(G), and deleted former (3)(I) and redesignated the remaining subdivision accordingly.

19-11-207. Applicability.

(a) This subchapter shall apply to every expenditure of public funds by this state, acting through a state agency as defined in § 19-11-203, under any contract. This subchapter shall not apply to either grants or contracts between the state and its political subdivisions or other governments, except as provided in §§ 19-11-206 and 19-11-249 — 19-11-258. It shall also apply to the disposal of state commodities. This subchapter shall not apply to contracts between agencies, except as provided in §§ 19-11-206 and 19-11-249 — 19-11-258.

(b) The provisions of this subchapter shall not preclude the acceptance of gifts and donations in the manner authorized by law.

History. Acts 1979, No. 482, § 9; A.S.A. 1947, § 14-237.2.

19-11-208. Exemptions.

Commodities and services need not be procured through the Office of State Procurement, if procured by the out-of-state offices of state agencies for that out-of-state office’s use but shall, nevertheless, be procured subject to the requirements of this subchapter and the state procurement regulations.

History. Acts 1979, No. 482, § 18; 1981, No. 600, § 6; A.S.A. 1947, § 14-246; Acts 2001, No. 1237, § 5.

19-11-209. Construction.

This subchapter shall be construed and applied to promote its underlying purposes and policies.

History. Acts 1979, No. 482, § 2; A.S.A. 1947, § 14-233.1.

19-11-210. Operation of other laws.

Unless displaced by the particular provisions of this subchapter, the principles of law and equity, including the Uniform Commercial Code, § 4-1-101 et seq., of this state, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement its provisions.

History. Acts 1979, No. 482, § 5; A.S.A. 1947, § 14-235.

19-11-211. Obligation of good faith.

Every contract or duty within this subchapter imposes an obligation of good faith in its performance or enforcement. "Good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

History. Acts 1979, No. 482, § 6; A.S.A. 1947, § 14-236.

19-11-212. Existing contracts.

The administration of contracts in existence on July 1, 1979, shall be the responsibility of the appropriate officials described in this subchapter.

History. Acts 1979, No. 482, § 8; A.S.A. 1947, § 14-237.1.

19-11-213. Federal assistance requirements.

In the event federal assistance requirements conflict with the provisions of this subchapter or regulations promulgated under it, nothing in this subchapter or its regulations shall prevent any state agency or political subdivision from complying with the terms and conditions of the federal assistance requirements.

History. Acts 1979, No. 482, § 10; A.S.A. 1947, § 14-238.

19-11-214. Determinations and findings.

Written determinations and findings required by this subchapter shall be retained in an official contract file by the Office of State Procurement or by the state agency administering the contract for a period of five (5) years.

History. Acts 1979, No. 482, § 11; A.S.A. 1947, § 14-239; Acts 2001, No. 1237, § 6.

19-11-215. Office of State Procurement.

(a) There is created within the Department of Finance and Administration an Office of State Procurement to be administered by the State Procurement Director.

(b)(1) The office shall be subject to the supervision and management of the Director of the Department of Finance and Administration.

(2) The rules and regulations authorized in this subchapter shall be approved by the Director of the Department of Finance and Administration prior to the filing of the rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1979, No. 482, § 13; A.S.A. 1947, § 14-241; Acts 2001, No. 1237, § 7.

Publisher's Notes. Acts 1979, No. 482, § 17, provided that all rights, etc., relat-

ing to procurement exercised by any state agency that did not have an agency purchasing official were transferred to the Office of State Purchasing, except as otherwise provided.

19-11-216. State Procurement Director.

(a)(1) The executive head of the Office of State Procurement is designated as the administrator of the Office of State Procurement, and as such, he or she shall be known and designated as the State Procurement Director.

(2) The administrator shall be appointed by the Director of the Department of Finance and Administration.

(b) The administrator shall be at least thirty (30) years of age, of good moral character, and of demonstrated ability or capacity in the field of purchasing commodities and services.

History. Acts 1979, No. 482, § 14; 1983, No. 517, § 1; A.S.A. 1947, § 14-242; Acts 2001, No. 1237, § 8; 2007, No. 478, § 5.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond program for state officers, officials, and

employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Amendments. The 2007 amendment added "and services" at the end of (b).

19-11-217. Powers and duties of State Procurement Director.

(a) The State Procurement Director shall serve as the principal procurement officer of the state.

(b)(1) Except as otherwise provided in this subchapter and upon the approval of the Director of the Department of Finance and Administration, the State Procurement Director shall have the authority and responsibility to promulgate regulations consistent with this subchapter.

(2) In addition, consistent with the provisions of this subchapter, the State Procurement Director may adopt rules governing the internal procedures of the Office of State Procurement.

(c) Except as otherwise specifically provided in this subchapter, the State Procurement Director, within the limitations of this subchapter and the rules and regulations promulgated under authority of this subchapter:

(1) Shall procure or supervise the procurement of all commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract;

(2)(A) Shall develop and implement a plan for all state agencies acquiring vehicles that will reduce the overall annual petroleum consumption of those state agencies by at least ten percent (10%) by January 1, 2009, through measures that include:

(i) The use of alternative fuels, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(ii) The acquisition of vehicles with higher fuel economy, such as a hybrid vehicle operating on electricity and gasoline or diesel or bio-diesel fuel; and

(iii) The substitution of cars for light trucks.

(B)(i) By January 30 of each year, the State Procurement Director shall submit to the Legislative Council his or her report evaluating the progress of the plan toward achieving the goal set in subdivision (c)(2)(A) of this section.

(ii) The report shall include:

(a) The number and type of alternative fueled vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005, procured;

(b) The total number of alternative fueled vehicles used by each state agency;

(c) The difference between the cost of the purchase, maintenance, and operation of alternative fueled vehicles and comparable conventionally fueled motor vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(d) An evaluation of the plan's success; and

(e) Suggestions for modifying the plan;

(3) Shall manage and establish internal procedures for the office;

(4) Shall sell, trade, or otherwise dispose of surplus commodities belonging to the state;

(5) May establish and maintain programs for the inspection, testing, and acceptance of commodities and services;

(6) Shall establish and manage a list of vendors desiring written notice of invitations for bid;

(7) May establish, by regulation, a fee for receiving a written or electronic notice of invitations for bid; and

(8) Shall ensure compliance with this subchapter and implementing regulations by reviewing and monitoring procurements conducted by any designee, department, agency, or official delegated authority under this subchapter.

History. Acts 1979, No. 482, § 15; A.S.A. 1947, § 14-243; Acts 1991, No. 1018, § 2; 2001, No. 1237, § 9; 2005, No. 2322, § 1.

Amendments. The 2005 amendment inserted present (c)(2); and redesignated former (c)(2)-(7) to present (c)(3)-(8).

19-11-218. Assistants and designees.

Subject to the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., the State Procurement Director may:

- (1) Employ and supervise such assistants and other persons as may be necessary;
- (2) Fix their compensation as provided by law; and
- (3) Delegate authority to such designees or to any state agency as the director may deem appropriate, within the limitations of state law and the state procurement regulations.

History. Acts 1979, No. 482, § 16; A.S.A. 1947, § 14-244; Acts 2001, No. 1237, § 10; 2003, No. 487, § 3.

substituted "procurement regulations" for "procurement rules and regulations" in (3).

Amendments. The 2003 amendment

19-11-219. Legal counsel.

The Attorney General shall act as counsel for the State Procurement Director in preparation of necessary contracts and in all legal matters.

History. Acts 1979, No. 482, § 26; A.S.A. 1947, § 14-251.3; Acts 2001, No. 1237, § 11.

19-11-220. Agency procurement officials.

(a) In addition to any state agency authorized by regulation to have an agency procurement official, each of the following state agencies may elect to have such an official for commodities, technical and general services, and professional and consultant services, which are not within the exclusive jurisdiction of the State Procurement Director and which are not under state contract:

- (1) Arkansas State Highway and Transportation Department;
- (2) Arkansas State University-Beebe;
- (3) Arkansas State University;
- (4) Arkansas State University System;
- (5) Arkansas Tech University;
- (6) Henderson State University;
- (7) Southern Arkansas University;
- (8) University of Arkansas at Fayetteville;
- (9) University of Arkansas Fund entities;
- (10) University of Arkansas at Little Rock;
- (11) University of Arkansas at Monticello;
- (12) University of Arkansas at Pine Bluff;
- (13) University of Arkansas for Medical Sciences;
- (14) University of Central Arkansas;

- (15) Arkansas State University-Mountain Home;
- (16) Arkansas State University-Newport;
- (17) Black River Technical College;
- (18) Cossatot Community College of the University of Arkansas;
- (19) East Arkansas Community College;
- (20) National Park Community College;
- (21) Arkansas Northeastern College;
- (22) Mid-South Community College;
- (23) North Arkansas College;
- (24) Northwest Arkansas Community College;
- (25) Ouachita Technical College;
- (26) Ozarka College;
- (27) Phillips Community College of the University of Arkansas;
- (28) University of Arkansas Community College at Morrilton;
- (29) Pulaski Technical College;
- (30) Rich Mountain Community College;
- (31) SAU-Tech;
- (32) Southeast Arkansas College;
- (33) South Arkansas Community College;
- (34) University of Arkansas Community College at Batesville;
- (35) University of Arkansas Community College at Hope;
- (36) University of Arkansas at Fort Smith; and
- (37) Department of Higher Education.

(b)(1) Each official shall manage and establish internal procedures for the procurement office of the state agency authorized to have the official to ensure adequate administrative procedures and controls pursuant to law and the procurement regulations.

(2)(A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the Director of the Department of Finance and Administration that administrative procedures and controls are not adequate.

(B)(i) Such determination shall result in notification by the Director of the Department of Finance and Administration of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the Director of the Department of Finance and Administration determines that the deficiencies have been corrected.

(c) Except for the promulgation by the State Procurement Director of rules and regulations authorized in this subchapter and the letting of state contracts, all rights and practices granted herein to the Office of State Procurement and the State Procurement Director are granted to an official in the administration of contracts for the state agency authorized to have the official.

(d) Nothing in this section is intended to prohibit a state agency from utilizing the Office of State Procurement in the same manner as state agencies not authorized to have officials.

History. Acts 1979, No. 482, § 19; 1981, No. 600, §§ 7, 8; A.S.A. 1947, § 14-247; Acts 1991, No. 1018, § 3; 2001, No. 1237, § 12; 2005, No. 1680, § 2.

A.C.R.C. Notes. The operation of subsection (b) of this section was suspended by adoption of a self-insured fidelity bond program for state officers, officials, and employees, effective July 20, 1987, pursu-

ant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Amendments. The 2005 amendment substituted “commodities, technical and general services, and professional and consultant services” for “commodities and services” in (a).

19-11-221. Agency procurement official for Department of Correction.

(a) In addition to those agencies, institutions, and departments of state government enumerated in § 19-11-220 which may elect to have agency procurement officials for commodities, technical and general services, and professional and consultant services which are not within the exclusive jurisdiction of the State Procurement Director, which are not under state contract, and which are not procured in accordance with § 19-11-230, the Department of Correction and the Department of Community Correction may have such officials for the sole purpose of procuring perishable food items, who shall possess all powers, functions, and duties as authorized for agency procurement officials under this subchapter with respect to perishable food items only.

(b)(1) The officials of the Department of Correction and the Department of Community Correction shall have exclusive authority to procure perishable food items in accordance with applicable administrative procedures and controls established pursuant to this subchapter and the procurement regulations.

(2) Except as noted in this subsection and in subsection (c) of this section, the officials of the departments shall be subject to all other provisions and requirements of this subchapter and administrative procedures controls and procurement regulations provided in or promulgated pursuant to it.

(c)(1)(A) The Board of Corrections, annually, and at more frequent intervals if deemed necessary, shall make studies and determine whether it would be in the best interest of the management of the farm croplands at the farm units or at each of the separate farm units of the Department of Correction to provide for the lease of farm machinery and equipment, or certain items thereof, required for the production of farm crops, or whether it would be in the better interest of the Department of Correction to acquire such items of farm machinery and equipment by purchase.

(B)(i) Upon conclusion of the study, the board, by resolution adopted by a majority of the members of the board at a regular or special meeting, may authorize the agency procurement official for the Department of Correction to advertise for bids for the leasing of farm equipment or for the purchase of the items of farm equipment noted in the resolution.

(ii)(a) No lease of farm equipment shall be for more than two (2) years nor extend beyond June 30 of the fiscal biennium for which

current funds have been appropriated for the operation of the Department of Correction.

(b) However, nothing in this section shall prohibit the lease from including provisions, terms, or conditions upon which the lease may be renewed for an additional period of time, not exceeding two (2) years, at the option of the board.

(2)(A) In the event the board determines to provide for the leasing of farm machinery or equipment necessary in the farming operations of the Department of Correction, the official of the Department of Correction shall be the exclusive purchasing agent for advertising of bids and awarding of contracts for the leases, subject to the approval of the Director of the Department of Correction and the board.

(B) In the advertising for bids and the awarding of contracts, the state laws, procurement procedures, and rules and regulations shall be complied with in awarding the contracts.

(C)(i) It shall not be mandatory upon the board to award the contract for the furnishing of farm machinery and equipment under a lease agreement to the lowest bidder, unless the board shall determine that the awarding of the contract to such bidder would be in the best interest of the farming operations of the Department of Correction.

(ii) In that event, the board may award the contract to the bidder whose bid proposal is deemed by the board to be in the better interest of the farming operations of the Department of Correction.

(D) In making this determination the board shall consider, but not be limited by, the following factors:

(i) The type of equipment to be furnished;

(ii) Compatibility of the equipment with the training and experience of the farm managers and employees of the Department of Correction and the experience and skills of the inmates who will be using the equipment;

(iii) Provisions contained in the bid proposal providing for maintenance, repair, and service and upkeep of the equipment during the lease period, availability of the service and repair facilities, and source of replacement or repair parts;

(iv) The age and condition of the equipment to be leased; and

(v) Such other factors as the board deems essential to performance under the contract and dependability and reliability of the equipment to be furnished during the period of the lease.

(3)(A)(i) In determining the items of farm machinery and equipment to be acquired by purchase, the board may designate, if the board determines it to be within the better interest of the management of farm croplands of the Department of Correction, those items of farm machinery and equipment to be purchased.

(ii) The board may restrict the bid to equipment produced by no fewer than two (2) manufacturers of each item of equipment.

(B) In making this determination, the board shall include, but not be limited to, a consideration of the following factors:

(i) The types of farm machinery equipment now being used by the Department of Correction and the experience gained by the Department of Correction in the use of the equipment for the purposes for which it is being purchased;

(ii) Availability of service and replacement and spare parts for the equipment;

(iii) Familiarity with the equipment of the employees or inmates responsible for the maintenance, repair, and upkeep thereof;

(iv) Compatibility of the farm machinery and equipment with repair and maintenance shop facilities available at the Department of Correction;

(v) Access to the dealer responsible for warranty service; and

(vi) Such additional factors as the board deems pertinent to the better interests of the management and operation of the farm crop lands of the Department of Correction.

(C)(i) All purchases of farm machinery and equipment shall be in accordance with the applicable state procurement laws and rules and regulations promulgated thereunder.

(ii) Contracts for the providing or furnishing of service, repair, and replacement parts of farm machinery and equipment may include provision for the furnishing of a stated quantity of replacement and spare parts to be stored at the Department of Correction or may include contract prices for major or standard items of service or for the furnishing of replacement and spare parts at stated prices, which shall be at a discount from the published dealer price list, as the board may deem in the best interest of the department.

(iii) As an alternative, the board may elect to authorize the official to acquire replacement and spare parts on a need basis by following the applicable state procurement procedure in the acquisition of each item thereof as needed.

(4)(A) The official of the Department of Correction acting under the instruction and direction of the board and the Director of the Department of Correction shall be the sole and exclusive purchasing agent for the acquisition of farm machinery and equipment, whether by lease or purchase, and for the acquisition of repair services for farm machinery and equipment and repair and replacement parts therefor in the manner set forth in this section, and for the acquisition of those items covered in subsection (b) of this section.

(B) Nothing in this section shall prohibit the Department of Correction from requesting the State Procurement Director to make available the services of the Office of State Procurement in the acquisition of any item for which the official of the Department of Correction is exclusive purchasing agent under this section.

History. Acts 1981, No. 240, §§ 1-3; A.S.A. 1947, §§ 14-247.1 — 14-247.3; Acts 1997, No. 351, § 1; 2001, No. 1237, § 13; 2005, No. 1680, § 3.

A.C.R.C. Notes. Acts 2001, No. 323,

§ 1, provided: “Legislative Intent. The General Assembly, in Act 549 of 1993, established the Arkansas Department of Community Punishment and delineated its purposes. Confusion in the public’s

perception, with regard to the purposes of the department, exists and will persist because of the inconsistency between the name of the department and its established purposes. The purpose of this act is to provide the department with a name that more accurately describes its role as an agency that is intended to fulfill the legislatively established purposes of supervision, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community and to provide its supervisory board with a name consistent with the department's name change."

Acts 2001, No. 323, § 3, provided: "The

'Board of Correction and Community Punishment', as established in Arkansas Code 12-27-104 and 16-93-1203, shall hereafter be known as the 'Board of Corrections'."

Acts 2001, No. 323, § 5, provided: "(a)

The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement this act. (b) The Arkansas Code Revision Commission is not required to codify this act."

Amendments. The 2005 amendment substituted "commodities, technical and general services, and professional and consultant services" for "commodities and services" in (a).

19-11-222. Exclusive jurisdiction over procurement.

(a) The State Procurement Director shall have exclusive jurisdiction over the procurement of:

(1) Items subject to Arkansas Constitution, Amendment 54;

(2) Wholesale gasoline, oil, and related products;

(3) Tires;

(4) Passenger motor vehicles and trucks, except highway construction and highway maintenance equipment or any specialized type of equipment used in highway construction, except as otherwise provided in this subchapter;

(5) Paper products;

(6) New and used school buses for state agencies;

(7) A purchasing card program and travel card program to include implementation and administration; and

(8) An electronic commerce procurement solution to include planning and administration consistent with the established financial systems of the state.

(b) As used in this section:

(1) "Printing" means the process of transferring images, by the use of standard industrial type printer ink, upon documents such as letterhead, envelopes, pamphlets, booklets, and forms;

(2) "Stationery" means imprinted letterhead and envelopes used by the General Assembly and other departments of state government to identify an individual department, agency, board, commission, etc.; and

(3) "Supplies" means paper and inks used to produce stationery.

History. Acts 1979, No. 482, § 20; 1981, No. 600, § 9; A.S.A. 1947, § 14-248; Acts 1991, No. 749, § 3; 1993, No. 896, § 4; 2001, No. 1237, § 14; 2001, No. 1309, § 1; 2003, No. 487, § 4; 2005, No. 1680, § 4.

Publisher's Notes. This section was

amended by Acts 2001, Nos. 1237 and 1309. The amendment by Acts 2001, No. 1309 was deemed to supersede the amendment by Acts 2001, No. 1237.

As amended by Acts 2001, No. 1237, this section was amended to read as follows: "The State Procurement Director

shall have exclusive jurisdiction over the procurement of the following commodities and services:

“(1) Items subject to Arkansas Constitution, Amendment 54;

“(2) Wholesale gasoline, oil, antifreeze, and related products;

“(3) Tires;

“(4) Tubes;

“(5) Passenger motor vehicles and trucks, except highway construction and highway maintenance equipment or any specialized type of equipment used in highway construction, except as otherwise provided in this subchapter;

“(6) Paper products;

“(7) New and used school buses for state agencies and school districts; and

“(8) A purchasing card program, to include implementation and administration.”

Amendments. The 2003 amendment deleted “antifreeze” following “oil” in (a)(2); deleted (a)(4) and redesignated the remaining subdivisions accordingly; in present (a)(7), inserted “and travel card program” and added “and” to the end; and added present (a)(8).

The 2005 amendment deleted “commodities and services” from the end of (a); and deleted “and school districts” from the end of (a)(6).

19-11-223. Commodities, technical and general services, and professional and consultant services under state contract.

(a) In addition to establishing a state contract for those commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the State Procurement Director under § 19-11-222, the director may award a state contract for other commodities, technical and general services, and professional and consultant services in those instances when substantial savings may be effected by quantity purchasing of commodities, technical and general services, or professional and consultant services in general use by several state agencies.

(b)(1) State contracts shall be limited to those commodities on which, by virtue of custom or trade, substantial savings may be realized.

(2) In those instances in which substantial savings are not effected, the letting of state contracts for those commodities shall be discontinued.

(c)(1) Except for the procurement of commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the director, state agencies with agency procurement officials that can demonstrate a geographical or volume buying advantage need not participate in the state contract.

(2) However, if the commodities, technical and general services, or professional and consultant services obtained are procured at a substantially higher price during the same state contract period, that state agency must participate in the state contract upon expiration of the state agency’s contract.

(d) Except as authorized in this section, all state agencies which require commodities, technical and general services, and professional and consultant services that are under state contract shall procure these commodities, technical and general services, and professional and consultant services exclusively under such contract.

(e) All contracts concerning commodities, technical and general services, and professional and consultant services shall disclose a

projected total cost, including, but not limited to, expenditures that may be incurred under all available periods of extension if the extensions were executed.

History. Acts 1979, No. 482, § 21; 1981, No. 600, § 10; A.S.A. 1947, § 14-249; Acts 2001, No. 1237, §§ 15, 16; 2005, No. 1680, § 5.

Amendments. The 2005 amendment substituted “commodities, technical and general services, and professional and

consultant services” for “commodities and services” throughout (a), (c) and (d); substituted “commodities, technical and general services, or professional and consultant services” for “commodities or services” in (a) and (c); and added (e).

19-11-224. Interest and carrying charges.

State agencies, including exempt agencies, may enter into contracts which contemplate the payment of interest and late charges, but only when such late charges are incurred sixty (60) days after payment is due or carrying charges under such regulations as may be promulgated by the State Procurement Director.

History. Acts 1979, No. 482, § 22; A.S.A. 1947, § 14-250; Acts 1997, No. 1066, § 2; 2001, No. 1237, § 17.

19-11-225. Regulations.

(a) Regulations shall be promulgated by the State Procurement Director in accordance with the applicable provisions of this subchapter and of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) No regulation shall change any commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of the regulation.

(c)(1) No clause which is required by regulation to be included shall be considered to be incorporated by operation of law in any state contract without the consent of both parties to the contract to the incorporation.

(2) The parties to the contract may give such consent to incorporation by reference at any time after the contract has been entered into and without the necessity of consideration passing to either party.

History. Acts 1979, No. 482, § 23; A.S.A. 1947, § 14-251; Acts 2001, No. 1237, § 18.

19-11-226. Recommendations.

(a) The State Procurement Director shall maintain a close and cooperative relationship with the using agencies.

(b)(1) The State Procurement Director shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to matters affecting the using agency.

(2) At any time, any using agency may make recommendations to the State Procurement Director, and the State Procurement Director may make recommendations to any using agency.

(3) The Director of the Department of Finance and Administration may make recommendations to the State Procurement Director.

History. Acts 1979, No. 482, § 24; A.S.A. 1947, § 14-251.1; Acts 2001, No. 1237, § 19.

19-11-227. Statistical data.

The State Procurement Director shall cooperate with the Office of Budget of the Department of Finance and Administration and the Office of Accounting of the Department of Finance and Administration in the preparation of statistical data concerning the procurement and disposition of all commodities and services, unless otherwise provided in this subchapter.

History. Acts 1979, No. 482, § 25; A.S.A. 1947, § 14-251.2; Acts 2001, No. 1237, § 20.

19-11-228. Methods of source selection.

Unless otherwise authorized by law, all contracts shall be awarded by competitive sealed bidding, pursuant to § 19-11-229, which refers to competitive sealed bidding, except as provided in:

- (1) Section 19-11-230, which refers to competitive sealed proposals;
- (2) Section 19-11-231, which refers to small procurements;
- (3) Section 19-11-232, which refers to proprietary or sole source procurements;
- (4) Section 19-11-233, which refers to emergency procurements;
- (5) Section 19-11-234, which refers to competitive bidding;
- (6) Section 19-11-262, which refers to multiple award contracts; or
- (7) Section 19-11-263, which refers to special procurements.

History. Acts 1979, No. 482, § 28; 253; Acts 1995, No. 428, § 2; 1995, No. 1981, No. 600, § 12; A.S.A. 1947, § 14- 507, § 2; 2001, No. 1237, § 21.

19-11-229. Competitive sealed bidding.

(a) "Competitive sealed bidding" means a method of procurement which requires:

- (1) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;
- (2) Public, contemporaneous opening of bids at a predesignated time and place;
- (3) Unconditional acceptance of a bid without alteration or correction, except as authorized in §§ 19-11-204 and 19-11-228 — 19-11-240;

(4) Award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids; and

(5) Public notice.

(b)(1) Contracts exceeding an estimated purchase price of twenty-five thousand dollars (\$25,000) shall be awarded by competitive sealed bidding, unless a determination is made in writing by the agency procurement official or the State Procurement Director of the Office of State Procurement of the Department of Finance and Administration that this method is not practicable and advantageous and specifically states the reasons that this method is not practicable and advantageous.

(2) The director may provide by regulation that it is not practicable to procure specified types of commodities, technical and general services, or professional and consultant services by competitive sealed bidding.

(3) Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(A) Purchase descriptions are suitable for award on the basis of the lowest evaluated bid price; and

(B) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.

(c) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced technical proposals to be followed by an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation.

(d)(1) Notice inviting bids shall be given not fewer than five (5) calendar days nor more than thirty (30) calendar days preceding the date for the opening of bids by publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or posting by electronic media, but in all instances, adequate notice shall be given.

(2)(A) The notice shall include a general description of the commodities, technical and general services, or professional and consultant services to be procured and shall state where invitations for bid may be obtained.

(B) The notice shall also state the date, time, and place of bid opening.

(e) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

(f)(1)(A) Bids shall be evaluated based on the requirements set forth in the invitation for bids.

(B) These requirements may include criteria to determine acceptability such as:

- (i) Inspection;
- (ii) Testing;
- (iii) Quality;
- (iv) Workmanship;
- (v) Delivery;
- (vi) Past performance; and

(vii) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.

(2)(A) The invitation for bids shall set forth the evaluation criteria to be used.

(B) No criteria may be used in bid evaluation that were not set forth in the invitation for bids.

(g)(1) Correction of patent or provable errors in bids that do not prejudice other bidders or withdrawal of bids may be allowed only to the extent permitted under regulations promulgated by the director and upon written approval of the Attorney General or a designee of such officer.

(2) No award shall be made on the basis of a corrected bid, if the corrected bid exceeds the next lowest bid of a responsible bidder.

(h)(1) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(2) In the event all bids exceed available funds as certified by the appropriate fiscal officer in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, the director or the head of a procurement agency may negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(3) All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.

(i) An invitation for bid may be cancelled or any or all bids may be rejected in writing by the director or the agency procurement official.

History. Acts 1979, No. 482, § 29; 1981, No. 600, §§ 13-16; A.S.A. 1947, § 14-254; Acts 1987, No. 540, § 2; 1995, No. 317, § 2; 1995, No. 340, § 2; 2001, No. 1237, § 22; 2003, No. 487, § 5; 2005, No. 1680, § 6.

Amendments. The 2003 amendment, in (f), added the subdivision designations

and made related changes; and inserted present (f)(1)(B)(vi).

The 2005 amendment deleted "Definition" from the beginning of (a); and substituted "commodities, technical and general services, or professional and consultant services" for "commodities or services" in (b) and (d)(2)(A).

19-11-230. Competitive sealed proposals.

(a) **DEFINITION.** "Competitive sealed proposals" means a method of procurement which involves, but is not limited to:

- (1) Solicitation of proposals through a request for proposals;
- (2) Submission of cost or pricing data from the offeror where required;

(3) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award; and

(4) An award made to the responsible offeror whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the request for proposals.

(b) When the use of competitive sealed bidding is not practicable and advantageous, a contract may be awarded by competitive sealed proposals.

(c) Public notice of the request for proposals shall be given in the same manner as provided in § 19-11-229(d), which refers to public notice of competitive sealed bidding.

(d) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(e)(1) As provided in the request for proposals and under regulations, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

(2) Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

(3) In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f)(1) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration price, the evaluation factors set forth in the request for proposals, and the results of any discussions conducted with responsible offerors.

(2) No other factors or criteria shall be used in the evaluation.

(g) A competitive sealed proposal may be cancelled or any or all proposals may be rejected in writing by the State Procurement Director or the agency procurement official.

History. Acts 1979, No. 482, § 30; 1981, No. 600, §§ 17-20; A.S.A. 1947, § 14-255; Acts 2001, No. 1237, § 23; 2007, No. 478, § 6.

deleted “under regulations promulgated by the State Procurement Director, the director determines in writing that” following “When” in (b).

Amendments. The 2007 amendment

19-11-231. Small procurements.

(a) Any procurement not exceeding the amount under § 19-11-204(13), which refers to small procurements, may be made in accordance with small procurement procedures promulgated by the State Procurement Director.

(b) However, procurement requirements shall not be artificially divided so as to constitute a small procurement under this section.

History. Acts 1979, No. 482, § 32; 1981, No. 600, § 22; A.S.A. 1947, § 14-257; Acts 2001, No. 1237, § 24.

19-11-232. Proprietary or sole source procurements.

(a) Under regulations promulgated under this subchapter, a contract may be awarded for a required or designated commodity or service to a sole or mandatory supplier when the State Procurement Director, the head of a procurement agency, or a designee of either officer above the level of agency procurement official determines in writing that it is not practicable to use other than the required or designated commodity or service.

(b) Unless a written determination is made that there is only one (1) source for the required or designated commodity or service, efforts shall be made to obtain price competition.

History. Acts 1979, No. 482, § 33; A.S.A. 1947, § 14-258; Acts 2001, No. 1237, § 25.

19-11-233. Emergency procurements.

The State Procurement Director, the head of a procurement agency, or a designee of either officer may make or authorize others to make emergency procurements as defined in § 19-11-204(4) and in accordance with regulations promulgated by the director.

History. Acts 1979, No. 482, § 34; 1981, No. 600, § 23; A.S.A. 1947, § 14-259; Acts 2001, No. 1237, § 26.

19-11-234. Competitive bidding.

(a)(1) Competitive bidding is a method of procurement which requires obtaining bids by:

- (A) Direct mail request to prospective bidders and obtaining written bids; or
- (B) Telephone; or
- (C) Telegraph; or
- (D) Written form; or
- (E) Electronic media.

(2) A competitive bid form authorized by the State Procurement Director must be completed.

(3) If three (3) competitive bids are not obtained on purchases when bids are required, the form must show the names of at least three (3) firms contacted in attempting to obtain competition or show the reason three (3) firms were not contacted.

(4)(A) Only firms which sell the type of commodity or service to be procured shall be contacted.

(B) The purchase procedures outlined in this section shall not apply to commodities, technical and general services, and professional and consultant services under state contract.

(b)(1) Contracts in which the purchase price exceeds five thousand dollars (\$5,000) and is less than or equal to twenty-five thousand dollars (\$25,000) may be awarded by use of competitive bidding procedures.

(2) However, in any such instances, competitive sealed bidding is permitted.

(c)(1)(A) All procurements shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements, criteria, and specifications.

(B) Delivery time required must be reasonable and consonant with current industry norms.

(2) Complete justification must be given if award is made to other than the low bidder.

(d) Repeated small quantity procurements to circumvent the competitive bid limits or failure to obtain competitive bids without justification shall constitute a violation of these procedures and shall result in withdrawal of the state agency's competitive bid privileges.

History. Acts 1979, No. 482, § 35; 1981, No. 600, § 24; A.S.A. 1947, § 14-260; Acts 1991, No. 1018, §§ 4, 5; 1995, No. 317, §§ 3, 4; 1995, No. 340, §§ 3, 4; 2001, No. 1237, § 27; 2003, No. 487, § 6; 2005, No. 1680, § 7.

Amendments. The 2003 amendment repealed (d).

The 2005 amendment substituted "commodities, technical and general services, and professional and consultant services" for "commodities and services" in (a)(4).

19-11-235. Responsibility of bidders and offerors.

(a)(1) A determination of nonresponsibility of a bidder or offeror shall be made in accordance with regulations promulgated by the State Procurement Director.

(2) A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted.

(3) The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(4) If a bidder or offeror is determined to be nonresponsive, the reasons therefor shall be included in the determination.

(b)(1) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the Office of State Procurement or the procurement agency without prior written consent by the bidder or offeror.

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the Director of the Department of Finance and Administration when any of those officers deems it necessary.

(c) The State Procurement Director or the agency procurement official may require the posting of a bid bond, a performance bond, or a similar assurance by any actual or prospective bidder, offeror, or contractor, under regulations promulgated under this subchapter.

History. Acts 1979, No. 482, § 36; A.S.A. 1947, § 14-261; Acts 1991, No. 1018, § 6; 2001, No. 1237, § 28.

19-11-236. Prequalification of suppliers.

(a)(1) The State Procurement Director may provide for prequalification of suppliers as responsible prospective contractors for particular types of commodities, technical and general services, and professional and consultant services.

(2) Solicitation mailing lists of potential contractors shall include, but shall not be limited to, such prequalified suppliers.

(b) Prequalifications shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and making of an award that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

History. Acts 1979, No. 482, § 37; substituted “commodities, technical and general services, and professional and consultant services” for “commodities and consultant services” in (a).
A.S.A. 1947, § 14-262; Acts 2005, No. 1680, § 8.

Amendments. The 2005 amendment

19-11-237. Cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee contracts.

As used in this subchapter, unless the context otherwise requires, the cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee system may be used under the authority of the State Procurement Director when:

(1) There exists no other economically practicable price arrangement to secure the commodity;

(2) A cost saving may be proved over the least expensive alternative;
or

(3) The pricing schedule involved is tied to an industry standard or other reliable system of cost prediction.

History. Acts 1979, No. 482, § 39; Acts 1995, No. 1234, § 1; 2001, No. 1237, 1983, No. 517, § 2; A.S.A. 1947, § 14-264; § 29.

19-11-238. Multiyear contracts.

(a) SPECIFIED PERIOD. Unless otherwise provided by law, a contract for commodities or services may be entered into for periods of not more than seven (7) years if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and perfor-

mance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor.

(b) DETERMINATION PRIOR TO USE. Prior to the utilization of a multi-year contract, it shall be determined in writing that:

(1) Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(2) Such a contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement; and

(3) In the event of termination for any reason, the contract provides for cessation of services and/or surrender by the state of the commodities and repayment to the state of any accrued equity.

(c) TERMINATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING YEARS.

Original terms of such multiyear contracts shall terminate on the last day of the current biennium, and any renewals by the state based upon continuing appropriation shall not exceed the next succeeding biennium. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent year of a multi-year contract, the contract for such subsequent year shall be terminated and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the commodities or services delivered under the contract. The cost of termination may be paid from:

(1) Appropriations currently available for performance of the contract;

(2) Appropriations currently available for procurement of similar commodities or services and not otherwise obligated; or

(3) Appropriations made specifically for the payment of such termination costs.

History. Acts 1979, No. 482, § 43; § 5; 1995, No. 340, § 5; 1995, No. 912, A.S.A. 1947, § 14-267; Acts 1995, No. 317, § 1.

19-11-239. Finality of determinations.

The determinations required by:

(1) Section 19-11-229(h), which refers to competitive sealed bidding, award;

(2) Section 19-11-230(b), which refers to competitive sealed proposals, conditions for use;

(3) Section 19-11-230(f), which refers to competitive sealed proposals, award;

(4) Section 19-11-232, which refers to proprietary or sole source procurements;

(5) Section 19-11-233, which refers to emergency procurements;

(6) Section 19-11-234, which refers to competitive bidding;

(7) Section 19-11-235, which refers to responsibility of bidders and offerors, determination of responsibility;

(8) Section 19-11-238(b), which refers to multiyear contracts, determination prior to use; and

(9) Section 19-11-263, which refers to special procurements, are final and conclusive, unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

History. Acts 1979, No. 482, § 46; 1981, No. 600, § 27; A.S.A. 1947, § 14-270; Acts 2001, No. 1237, § 30.

19-11-240. Reporting of suspected collusion.

(a) **NOTIFICATION TO THE ATTORNEY GENERAL.** When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the Attorney General.

(b) **RETENTION OF ALL DOCUMENTS.** All documents involved in any procurement in which collusion is suspected shall be retained until the Attorney General gives notice that they may be destroyed. All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt therefor.

History. Acts 1979, No. 482, § 47; A.S.A. 1947, § 14-270.1.

19-11-241. Specifications.

(a) **DEFINITION.**

(1) “Specification” means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service.

(2) “Specification” may include a description of any requirement for inspecting, testing, or preparing a commodity or service for delivery.

(b) The State Procurement Director shall promulgate regulations governing the preparation, maintenance, and content of standard and nonstandard specifications for commodities, technical and general services, and professional and consultant services procured by the Office of State Procurement.

(c) **MAXIMUM PRACTICABLE COMPETITION.** All specifications shall be drafted so as to assure the maximum practicable competition for the state’s actual requirements.

History. Acts 1979, No. 482, §§ 49-51; 1981, No. 600, § 28; A.S.A. 1947, §§ 14-271 — 14-272.1; Acts 2001, No. 1237, § 31; 2005, No. 1680, § 9.

Amendments. The 2005 amendment

substituted “commodities, technical and general services, and professional and consultant services” for “commodities and services” in (b).

19-11-242. Commodity management regulations.

The State Procurement Director shall promulgate regulations governing:

(1) The sale, lease, or disposal of surplus commodities by public auction, competitive sealed bidding, or other appropriate method designated by regulation, and no employee of the Department of Finance and Administration or member of the employee's immediate family shall be entitled to purchase any such commodities; and

(2) Transfer of excess commodities within the state.

History. Acts 1979, No. 482, § 55; A.S.A. 1947, § 14-275.1; Acts 2001, No. 1237, § 32.

19-11-243. Proceeds from surplus commodities.

The State Procurement Director shall promulgate regulations for the allocation of proceeds from the sale, lease, or disposal of surplus commodities, to the extent practicable, to the using agency which had possession of the commodity.

History. Acts 1979, No. 482, § 56; A.S.A. 1947, § 14-275.2; Acts 2001, No. 1237, § 33.

19-11-244. Resolution of protested solicitations and awards.

(a)(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the State Procurement Director or the head of a procurement agency.

(2) The protest shall be submitted in writing within fourteen (14) calendar days after the aggrieved person knows or should have known of the facts giving rise to the grievance.

(b)(1) Prior to the commencement of an action in court or any other action provided by law concerning the controversy, the director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

(2) This authority shall be exercised in accordance with laws governing the Arkansas State Claims Commission and the regulations promulgated by the director.

(c)(1) If the protest is not resolved by mutual agreement, and after reasonable notice to the protestor involved and reasonable opportunity for the protestor to respond to the protest issues according to the regulations promulgated by the director, the head of a procurement agency, the director, or a designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the protestor and any other party intervening.

(e) A decision under subsection (c) of this section shall be final and conclusive.

(f) In the event of a timely protest under subsection (a) of this section, the state shall not proceed further with the solicitation or with the award of the contract until the director or the head of a procurement agency makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

(g) When the protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs, through the commission.

History. Acts 1979, No. 482, § 57; A.S.A. 1947, § 14-276; Acts 2001, No. 1237, § 34; 2003, No. 487, § 7; 2005, No. 1680, § 10.

Amendments. The 2003 amendment added the subdivision designations in (c); and, in (c)(1), substituted “to respond to the protest issues according to the regulations promulgated by” for “to be heard”

and inserted “the director” following “agency.”

The 2005 amendment substituted “the protestor” for “the person” in (c)(1) and (d); substituted “the protestor to” for “that person to” in (c)(1); and deleted “Award of Costs to Protestants” from the beginning of (g).

CASE NOTES

Exhaustion of Remedies.

Where plaintiffs chose to bring suit under the Purchasing Law, they were bound by the procedural requirements of the statute, notwithstanding their argument that they fell within a recognized exception to the exhaustion doctrine; plaintiffs were not justified in assuming that the state employee’s assertion was correct,

and specifically, in assuming that the Purchasing Law’s dispute resolution process was no longer applicable. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

Cited: *National Park Medical Ctr. v. Arkansas Dep’t of Human Servs.*, 322 Ark. 595, 911 S.W.2d 250 (1995).

19-11-245. Debarment or suspension.

(a) **APPLICABILITY.** This section applies to debarment for cause from consideration for award of contracts, or a suspension from such consideration during an investigation, when there is probable cause for such a debarment.

(b)(1)(A)(i) After reasonable notice to the person involved and reasonable opportunity for that person to have a hearing before a committee according to regulations promulgated by the State Procurement Director, the director or the head of a procurement agency shall have authority to debar a person for cause from consideration for award of contracts, provided that doing so is in the best interests of the state.

(ii) The debarment shall not be for a period of more than three (3) years.

(B)(i) The same officer shall have authority to suspend a person from consideration for award of contracts, provided that doing so is in the best interests of the state and there is probable cause for debarment.

- (ii) The suspension shall not be for a period exceeding three (3) months.
- (2) The authority to debar or suspend shall be exercised in accordance with regulations promulgated by the director.
- (c) The causes for debarment or suspension because of unsuitability for award of a contract shall be set forth in regulations promulgated by the director.
- (d) The director or the head of a procurement agency shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
- (e) NOTICE OF DECISION. A copy of the decision under subsection (d) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the debarred or suspended person and any other party intervening.
- (f) FINALITY OF DECISION. A decision under subsection (d) of this section shall be final and conclusive.

<p>History. Acts 1979, No. 482, § 58; A.S.A. 1947, § 14-277; Acts 2001, No. 1237, § 35; 2003, No. 487, § 8.</p> <p>Amendments. The 2003 amendment added the subdivision designations in (b);</p>	<p>and substituted “person to have a hearing ... Director, the director” for “person to be heard, the State Procurement Director” in (b)(1)(A)(i).</p>
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19-11-246. Resolution of contract and breach of contract controversies.

- (a) APPLICABILITY. This section applies to controversies between the state and a contractor which arise under or by virtue of a contract between them. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modifications or rescission.
- (b)(1) The State Procurement Director, the head of a procurement agency, or a designee of either officer is authorized, prior to commencement of an action in a court or any other action provided by law concerning the controversy, to settle and resolve a controversy described in subsection (a) of this section.
- (2) This authority shall be exercised in accordance with the law governing the Arkansas State Claims Commission and the regulations promulgated by the director.
- (c)(1) If such a claim or controversy is not resolved by mutual agreement, and after reasonable notice to the contractor and reasonable opportunity for the contractor to present the claim or controversy in accordance with the regulations promulgated by the director, the head of a procurement agency, the director, or the designee of either officer shall promptly issue a decision in writing.
- (2) The decision shall state the reasons for the action taken.
- (d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the contractor.
- (e) The decision under subsection (c) of this section shall be final and conclusive.

(f) If the director, the head of a procurement agency, or the designee of either officer does not issue the written decision required under subsection (c) of this section within one hundred twenty (120) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision has been received.

History. Acts 1979, No. 482, § 59; A.S.A. 1947, § 14-278; Acts 2001, No. 1237, § 36; 2003, No. 487, § 9; 2005, No. 1680, § 11.

Amendments. The 2003 amendment added the subdivision designations in (c); and, in (c)(1), substituted “to respond to the claim or controversy in accordance

with the regulations promulgated by” for “to be heard” and inserted “the director” following “agency.”

The 2005 amendment, in (c)(1), substituted “notice to the contractor” for “notice to the person involved” and “the contractor to present” for “that person to respond to.”

19-11-247. Remedies for unlawful solicitation or award.

(a) The provisions of this section apply where it is determined upon any review provided by law that a solicitation or award of a contract is in violation of law.

(b) If prior to award it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be:

- (1) Cancelled; or
- (2) Revised to comply with the law.

(c) If after an award it is determined that a solicitation or award of a contract is in violation of law, then in addition to or in lieu of other remedies provided by law:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(A) The contract may be ratified and affirmed if it is determined that doing so is in the best interests of the state; or

(B) The contract may be terminated;

(2) If the person awarded the contract has acted fraudulently or in bad faith:

(A) The contract may be declared null and void; or

(B) The person awarded the contract may be directed to proceed with performance of the contract and pay such damages, if any, as may be appropriate if such action shall be in the best interests of the state.

History. Acts 1979, No. 482, §§ 60-62; A.S.A. 1947, §§ 14-279 — 14-279.2.

CASE NOTES

Improper Remedy.

In their action under the Arkansas Purchasing Law, plaintiffs sought the wrong remedy as the Purchasing Law provides

for termination of the contract or “other remedies provided by law,” such as an injunction or mandamus, if an award is in violation of the law; plaintiffs sought com-

pensatory and punitive damages, but failed to seek injunctive relief or mandamus. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

19-11-248. Finality of administrative determinations.

In any judicial action or other action provided by law, factual or legal determinations by employees, agents, or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except to the extent provided in:

- (1) Section 19-11-239, which refers to finality of determinations;
- (2) Section 19-11-244(e), which refers to resolution of protested solicitations and awards, finality of decision;
- (3) Section 19-11-245(f), which refers to debarment or suspension, finality of decision; and
- (4) Section 19-11-246(e), which refers to resolution of contract and breach of contract controversies, finality of decision.

History. Acts 1979, No. 482, § 63; A.S.A. 1947, § 14-280.

19-11-249. Cooperative purchasing.

Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one (1) or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.

History. Acts 1979, No. 482, § 65; A.S.A. 1947, § 14-282.

19-11-250. Sale, etc., of commodities.

Any public procurement unit by agreement with another public procurement unit may sell to, acquire from, or use any commodities belonging to or produced by another public procurement unit or external procurement activity independent of the requirements of:

- (1) Sections 19-11-204, 19-11-228 — 19-11-240, and 19-11-263, which refer to source selection and contract formation; and
- (2) Sections 19-11-205, 19-11-242, and 19-11-243, which refer to commodity management.

History. Acts 1979, No. 482, § 66; A.S.A. 1947, § 14-283; Acts 2001, No. 1237, § 37; 2003, No. 487, § 10.

Amendments. The 2003 amendment substituted “the requirements” for “the requirement.”

19-11-251. Intergovernmental use of commodities or services.

Any public procurement unit may enter into an agreement with any other public procurement unit or external procurement activity for the intergovernmental use of commodities, technical and general services, or professional and consultant services under the terms agreed upon between the parties and in accordance with the rules and regulations promulgated under this subchapter, independent of the requirements of:

(1) Sections 19-11-204, 19-11-228 — 19-11-240, and 19-11-263 that refer to source selection and contract formation; and

(2) Sections 19-11-205, 19-11-242, and 19-11-243 that refer to commodity management.

History. Acts 1979, No. 482, § 67; substituted “commodities, technical and general services, or professional and consultant services” for “commodities or services.”
A.S.A. 1947, § 14-284; Acts 2001, No. 1237, § 38; 2005, No. 1680, § 12.

Amendments. The 2005 amendment

19-11-252. Rules and regulations.

The State Procurement Director may promulgate reasonable rules and regulations pertaining to the sale or acquisition of any commodities, technical and general services, or professional and consultant services belonging to or produced by another public procurement unit or external procurement activity as authorized in §§ 19-11-206 and 19-11-249 — 19-11-258.

History. Acts 1979, No. 482, § 68; substituted “commodities, technical and general services, or professional and consultant services” for “commodities or services.”
A.S.A. 1947, § 14-285; Acts 2001, No. 1237, § 39; 2005, No. 1680, § 13.

Amendments. The 2005 amendment

19-11-253. Joint use of facilities.

Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties.

History. Acts 1979, No. 482, § 69;
A.S.A. 1947, § 14-286.

19-11-254. State information services.

(a) Upon request, the State Procurement Director may make available to public procurement units the following services, among others:

- (1) Standard forms;
- (2) Printed manuals;
- (3) Product specifications and standards;
- (4) Quality assurance testing services and methods;
- (5) Qualified products lists;

- (6) Source information;
 - (7) Common use commodities listings;
 - (8) Supplier prequalification information;
 - (9) Supplier performance ratings;
 - (10) Debarred and suspended bidders lists;
 - (11) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
 - (12) Contracts, or published summaries thereof, including price and time of delivery information.
- (b) The director may enter into contractual arrangements and publish a schedule of fees for the services provided under this section.

History. Acts 1979, No. 482, §§ 70, 71; A.S.A. 1947, §§ 14-287, 14-288; Acts 2001, No. 1237, § 40.

19-11-255. Use of payments received.

All payments from any public procurement unit or external procurement activity received by a public procurement unit supplying services shall be available to the supplying public procurement unit.

History. Acts 1979, No. 482, § 72; A.S.A. 1947, § 14-289.

19-11-256. Compliance by public procurement units.

(a) **PROCUREMENT IN ACCORDANCE WITH REQUIREMENTS.** When the public procurement unit or external procurement activity administering a cooperative purchase complies with the requirements of this subchapter, any public procurement unit participating in such a purchase shall be deemed to have complied with this subchapter.

(b) When a public procurement unit or external procurement activity not subject to this subchapter administers a cooperative purchase for a public procurement unit subject to this subchapter, then the State Procurement Director must determine in writing that the procurement system and remedies procedures of the public procurement unit or external procurement activity administering the procurement substantially meet the requirements of this subchapter.

History. Acts 1979, No. 482, § 73; A.S.A. 1947, § 14-290; Acts 2001, No. 1237, § 41.

19-11-257. Review of procurement requirements.

(a)(1) To the extent possible and consistent with efficiency, the State Procurement Director shall collect information concerning the type, cost, quality, and quantity of commonly used commodities or services being procured or used by state public procurement units.

(2) The director may also collect such information from local public procurement units.

(b) The director may make available all such information to any public procurement unit upon request.

History. Acts 1979, No. 482, § 74;
A.S.A. 1947, § 14-291; Acts 2001, No.
1237, § 42.

19-11-258. Contract controversies.

Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with §§ 19-11-244 — 19-11-248, which refer to legal and contractual remedies, where the administering public procurement unit is a state public procurement unit or otherwise subject to §§ 19-11-244 — 19-11-248.

History. Acts 1979, No. 482, § 75;
A.S.A. 1947, § 14-292.

19-11-259. Preferences among bidders.

(a) DEFINITIONS. (1) The definitions in this subsection shall not be applicable to other sections of this subchapter.

(2) As used in this section:

(A) “Commodities” means materials and equipment used in the construction of public works projects;

(B) “Firm resident in Arkansas” means any individual, partnership, association, or corporation, whether domestic or foreign, who:

(i) Maintains at least one (1) staffed office in this state;

(ii) For not fewer than two (2) successive years immediately prior to submitting a bid, has paid taxes under the Department of Workforce Services Law, § 11-10-101 et seq., unless exempt, and either the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., on any property used or intended to be used for or in connection with the firm’s business; and

(iii) Within the two-year period, has paid any taxes to one (1) or more counties, school districts, or municipalities of the State of Arkansas on either real or personal property used or intended to be used or in connection with the firm’s business.

(C) “Lowest qualified bid” means the lowest bid which conforms to the specifications and request for bids;

(D) “Nonresident firm” means a firm which is not included in the definition of a “firm resident in Arkansas”; and

(E) “Public agency” means all counties, municipalities, and political subdivisions of the state.

(b)(1)(A) In the purchase of commodities by competitive bidding, all public agencies shall accept the lowest qualified bid from a firm resident in Arkansas.

(B) This bid shall be accepted only if the bid does not exceed the lowest qualified bid from a nonresident firm by more than five percent (5%) and if one (1) or more firms resident in Arkansas made written claim for a preference at the time the bids were submitted.

(C)(i) In calculating the preference to be allowed, the appropriate procurement officials, pursuant to §§ 19-11-201 — 19-11-259, shall take the amount of each bid of the Arkansas dealers who claimed the preference and deduct five percent (5%) from its total.

(ii) If, after making such deduction, the bid of any Arkansas bidder claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the Arkansas firm which submitted the lowest bid, regardless of whether that particular Arkansas firm claimed the preference.

(2)(A) The preference provided for in this section shall be applicable only in comparing bids where one (1) or more bids are by a firm resident in Arkansas and the other bid or bids are by a nonresident firm.

(B) This preference shall have no application with respect to competing bids if both bidders are firms resident in Arkansas, as defined in this section.

(C)(i) All public agencies shall be responsible for carrying out the spirit and intent of this section in their procurement policies.

(ii) Any public agency which, through any employee or designated agent, is found guilty of violating the provisions of this section or committing an unlawful act under it, shall be guilty of a misdemeanor.

(D) Notwithstanding any other provisions of Arkansas law, upon conviction that person shall be subject to imprisonment for not more than six (6) months or a fine of not more than one thousand dollars (\$1,000), or both.

(E)(i) If any provision or condition of this subchapter conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grants-in-aid programs or other federal aid programs, such provision or condition shall not apply to such federal-supported contracts for the purchase of commodities to the extent that the conflict exists.

(ii) However, all provisions or conditions of this subchapter with which there is no conflict shall apply to contracts to purchase commodities to be paid, in whole or in part, from federal funds.

(c)(1) The provisions of this section shall only apply to projects designed to provide utility needs of a county or municipality.

(2) Those projects shall include, but shall not be limited to, pipeline installation, sanitary projects, and waterline, sewage, and water works.

History. Acts 1979, No. 482, § 76; 1993, No. 263, § 1; 1993, No. 678, §§ 1, 2; 1981, No. 600, § 29; 1983, No. 760, § 2; 2001, No. 1237, § 43; 2003, No. 487, § 11. A.S.A. 1947, § 14-293; Acts 1989, No. 477, § 2; 1989 (3rd Ex. Sess.), No. 45, § 1; 1991, No. 846, § 1; 1991, No. 855, § 1; **Publisher's Notes.** Acts 1983, No. 760, § 1, provided that, on March 24, 1983, printing, stationery, and supplies subject

to Ark. Const. Amend. 54 would be subject to the provisions of the Arkansas Preference Law (Acts 1979, No. 482, as amended).

Acts 1989, No. 477, § 1, provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the bidder's preference for firms resident in Arkansas on purchases of commodities by public agencies has been declared unconstitutional because of the vague definition of 'firm resident in Arkansas'; that the bidder's preference law

is beneficial to the state; and corrective legislation should be enacted to reinstitute bidder's preference law. Therefore, the purpose of this act is to redefine 'firm resident in Arkansas' in Arkansas Code 19-11-259 in order to correct constitutional deficiencies."

Amendments. The 2003 amendment substituted "means" for "shall mean" throughout (a); redesignated the subdivisions in (a) in alphabetical order; and made stylistic changes.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Note, Public Contracts — Standing of Unsuccessful Bidders to Sue. *Walt Bennett Ford, Inc. v.*

Pulaski County Special School District, 274 Ark. 208, 624 S.W.2d 426 (1981). 5 U. Ark. Little Rock L.J. 431.

CASE NOTES

ANALYSIS

Factual Determination.
Sale of School Buses.

Factual Determination.

The question presented as to whether a dealer was entitled to a preference under former statute was factual, depending upon the circumstances in each particular case. *Stebbins & Roberts, Inc. v. Pulaski*

Glass & Mirror Co., 233 Ark. 449, 345 S.W.2d 912 (1961) (decision under prior law).

Sale of School Buses.

This section applies to a contract for the sale of 18 school buses to a school district, since a school district is a subdivision of a state. *Walt Bennett Ford, Inc. v. Pulaski County Special Sch. Dist.*, 274 Ark. 208, 624 S.W.2d 426 (1981).

19-11-260. Recycled paper products — Preference.

(a) The State Procurement Director shall issue a recycled paper content specification for each type of paper product.

(b)(1) The goal of state agencies for the percentage of paper products to be purchased that utilize recycled paper shall be:

- (A) Ten percent (10%) in fiscal year 1991;
- (B) Twenty-five percent (25%) in fiscal year 1992;
- (C) Forty-five percent (45%) in fiscal year 1993; and
- (D) Sixty percent (60%) by calendar year 2000.

(2)(A) The Office of State Procurement shall prepare a semiannual report of the state's progress in meeting the goals for the purchase of paper products with recycled content.

(B) The report shall be made to the Governor.

(c)(1) Whenever a bid is required, a preference for recycled paper products shall be exercised if the use of the products is technically feasible and price is competitive.

(2)(A) For the purpose of procurement of recycled paper products, "competitive" means the bid price does not exceed the lowest qualified

bid of a vendor offering paper products manufactured or produced from virgin material by ten percent (10%).

(B) An additional one percent (1%) preference shall be allowed for products containing the largest amount of postconsumer materials recovered within the State of Arkansas.

(3) A bidder receiving a preference under this section shall not be entitled to an additional preference under § 19-11-259.

History. Acts 1991, No. 749, § 4; 2001, No. 1237, §§ 44, 45.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Environmental Law, 14 U. Ark. Little Rock L.J. 779.

19-11-261. Cooperative purchase of paper products for local governments.

(a)(1) All cities, counties, and school districts shall participate in a cooperative purchasing program for the purchase of paper products.

(2) The program shall be administered by the State Procurement Director.

(b)(1) The director shall promulgate regulations for administration of the program.

(2) The regulations shall be reviewed by the House Interim Committee on Public Health, Welfare, and Labor and the Senate Interim Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the committees.

History. Acts 1991, No. 749, § 4; 1997, No. 179, § 18; 2001, No. 1237, § 46.

19-11-262. Multiple award contracts.

(a)(1) Multiple award contracts may be made only if the State Procurement Director or an agency procurement official determines in writing that a single award is not advantageous to the State of Arkansas.

(2) The determination shall state in writing a rationale and basis for the multiple award contract.

(3) Multiple award contracts shall be limited to the least number of suppliers necessary to meet the requirements of the using agencies.

(b) If the director anticipates that multiple award contracts will be made, the invitation for bids shall include a notification of the right of the office to make such an award and the criteria upon which such an award will be based.

History. Acts 1995, No. 428, § 3; 1995, No. 507, § 3; 2001, No. 1237, § 47.

19-11-263. Special procurements.

(a) Notwithstanding any other provision of this subchapter, the State Procurement Director or the head of a procurement agency may initiate a procurement above the competitive bid amount specified in § 19-11-234, when the officer determines that an unusual or unique situation exists that makes the application of all requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest.

(b) A written determination of the basis for the procurement and for the selection of the particular contractor shall be included by the director or the head of a procurement agency in the contract file, and he or she shall file a monthly report with the Legislative Council describing all such determinations.

History. Acts 2001, No. 1237, § 48.

19-11-264. Submission of contracts with members of the General Assembly required.

(a) All contracts with a member of the General Assembly, his or her spouse, or with any business in which such person or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract.

(b) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director and the Director of the Arkansas Ethics Commission with its review as to the propriety of the contract, including without limitation whether the agency properly complied with the procurement process and whether the contract represents an improper conflict of interest between the member and the agency, within thirty (30) days after receipt of the proposed contract.

(c) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Finance and Administration has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

History. Acts 2007, No. 567, § 1.

A.C.R.C. Notes. Acts 2007, No. 567, § 2, provided: "On or before October 1, 2007, each state agency, as defined under § 19-11-203, shall report to the Legislative Council all contracts with a member of the General Assembly, his or her

spouse, or with any business in which such person or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business entered into in the five (5) years prior to the effective date of this act."

19-11-265. Submission of contracts required.

(a)(1) All contracts for technical and general services, except for those that are specifically exempt from review, requiring the service of an individual or individuals for regular full-time or part-time weekly work in the areas of information technology, the actual delivery of health care or human services or educational services shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract if the total contract amount exceeds one hundred thousand dollars (\$100,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with their review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Office of State Procurement has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this section.

History. Acts 2007, No. 870, § 1.

19-11-266. High efficiency lighting — Preference.

(a)(1) The General Assembly finds:

(A) The expansion of state government makes it one of the state's leading purchasers of lighting commodities;

(B) Recent technological developments have produced energy-efficient devices that reduce energy costs through a reduction in energy usage; and

(C) Prudent use of taxpayer dollars dictates that the State of Arkansas should be at the forefront of implementing energy-efficient devices in facilities operated with public funds.

(2) The intent of this section is to promote the use of high efficiency lighting in facilities operated with public funds when feasible.

(b) As used in this section:

(1)(A) "Fluorescent lamp" means a gas-discharge lamp that:

(i) Utilizes a magnetic, electronic, or other ballast; and

(ii) Uses electricity to excite mercury vapor in argon or neon gas resulting in a plasma that produces short-wave ultraviolet light that causes a phosphor to fluoresce and produce visible light.

(B) "Fluorescent lamp" includes without limitation a compact fluorescent lamp;

(2) "High efficiency lighting" means fluorescent lamp or solid state lighting;

(3) "Solid state lighting" means a light device that utilizes light-emitting diodes, organic light-emitting diodes, or polymer light-emitting diodes as sources of illumination rather than electrical filaments or gas; and

(4)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds.

(B) "State agency" includes the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Arkansas Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts.

(c) Whenever a state agency purchases or requires a bid for the purchase of an indoor lamp, a preference for high efficiency lighting shall be exercised if the use of high efficiency lighting is technically feasible and the price is competitive with consideration given to the long-term cost effectiveness and savings of high efficiency lighting.

(d)(1) The goal of state agencies for the percentage of purchased indoor lamps that are high efficiency lighting shall be one hundred percent (100%) by January 1, 2008.

(2) The Office of State Procurement shall prepare an annual report to the Legislative Council of the state's progress in meeting the goals for the purchase of high efficiency lighting.

History. Acts 2007, No. 1597, § 1.

SUBCHAPTER 3 — BIDDING — STATE INDUSTRY PRIORITY

SECTION.

19-11-301. Purpose.

19-11-302. Definitions.

19-11-303. Provisions controlling.

19-11-304. Priority for state industries.

19-11-305. Award to lowest state bidder
— Exceptions.

SECTION.

19-11-306. Underbid by nonresident industry or penal institution.

Cross References. Prison-made goods, §§ 12-30-201 et seq., 22-3-1218.

Effective Dates. Acts 1981, No. 309, § 9: Mar. 4, 1981. Emergency clause provided: "It has been found and it is declared by the General Assembly of Arkansas that inequalities and discriminations in the awards of State contracts exist as the result of the receipt of bids from out of

state penal institutions, and that enactment of this Bill will provide for a more efficient and effective competitive environment for Arkansas industries. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force and effect from the date of its approval."

19-11-301. Purpose.

The purpose of this subchapter is to protect Arkansas private industries which employ Arkansas taxpayers and citizens from the unfair advantage held by certain out-of-state penal institutions that utilize convict labor and are exempt from minimum wage requirements, Occupational Safety and Health Act requirements, and other such standards which are imposed on private industries and which increase the costs of products manufactured by private industries. This advantage which is enjoyed by many out-of-state penal institutions allows them to often receive contracts under the Arkansas Procurement Law, § 19-11-201 et seq., bidding process when Arkansas private industries also submit bids, thus hindering a healthy competitive environment for the private industries of this state.

History. Acts 1981, No. 309, § 1; A.S.A. section, is codified as 5 U.S.C. §§ 5108, 1947, § 14-294. 5314, 5315, 7902; 15 U.S.C. §§ 633, 636;

U.S. Code. The Occupational Safety and Health Act of 1970, referred to in this 18 U.S.C. § 1114; 29 U.S.C. §§ 553, 651—678.

19-11-302. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “State” means the government of the State of Arkansas and all departments, branches, agencies, and subdivisions thereof;

(2) “Private industry” means manufacturers, makers of products, companies, corporations, or firms which are not departments, divisions, or arms of the federal, state, or local governments;

(3) “Private industry located within the State of Arkansas” means private industries, as defined in subdivision (2) of this section, which are located in Arkansas, employing Arkansas citizens and taxpayers as laborers in the process of manufacturing goods and products within this state;

(4) “Bids” means proposals submitted to the state for the sale of products to the state; and

(5) “Penal institution” means a penitentiary, jail, prison, reformatory, or other such establishment owned, operated, or funded by a state or local government wherein incarcerated criminals are kept.

History. Acts 1981, No. 309, § 2; A.S.A. 1947, § 14-294.1.

19-11-303. Provisions controlling.

Where provisions of this subchapter are inconsistent with provisions of the current Arkansas Procurement Law, § 19-11-201 et seq., the provisions in this subchapter shall control.

History. Acts 1981, No. 309, § 7; A.S.A. 1947, § 14-294.5.

19-11-304. Priority for state industries.

In the bidding process for the sale of products for use by the state, bids submitted by private industries located within the State of Arkansas and employing Arkansas taxpayers shall be given priority over bids submitted by out-of-state penal institutions employing convict labor.

History. Acts 1981, No. 309, § 3; A.S.A. 1947, § 14-294.2.

19-11-305. Award to lowest state bidder — Exceptions.

Subject to any applicable bonding requirements, in all bidding procedures involving a bid by one (1) or more out-of-state penal institutions and a bid by one (1) or more private industries located within the State of Arkansas, the contract shall be awarded to the sole Arkansas bidder or lowest Arkansas bidder if the Arkansas bidder is not underbid by more than five percent (5%), as provided in § 19-11-259, by another representative of private industry located outside the State of Arkansas or by more than fifteen percent (15%) by an out-of-state correctional institution.

History. Acts 1981, No. 309, § 4; A.S.A. 1947, § 14-294.3.

19-11-306. Underbid by nonresident industry or penal institution.

Subject to any applicable bonding requirements, in the event that a private Arkansas bidder is underbid by more than five percent (5%), as provided in § 19-11-259, by another representative of private industry located outside the State of Arkansas or is underbid by more than fifteen percent (15%) by an out-of-state correctional institution, the state contract shall be awarded to the lowest responsible bidder, whether that bidder is a penal or correctional institution or is a representative of private industry.

History. Acts 1981, No. 309, § 5; A.S.A. 1947, § 14-294.4.

SUBCHAPTER 4 — BIDDING — BONDS**SECTION.**

19-11-401 — 19-11-405. [Repealed.]

19-11-401 — 19-11-405. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1993, No. 645, § 2. The subchapter was derived from the following sources:

- 19-11-401. Acts 1949, No. 228, § 1; A.S.A. 1947, § 14-113.
- 19-11-402. Acts 1949, No. 228, §§ 5, 6; 1983, No. 862, § 3; A.S.A. 1947, §§ 14-117, 14-118; Acts 1987, No. 55, § 1.
- 19-11-403. Acts 1949, No. 228, § 2; 1983, No. 862, § 1; A.S.A. 1947, § 14-114; Acts 1987, No. 758, § 2.
- 19-11-404. Acts 1949, No. 228, § 4; A.S.A. 1947, § 14-116.
- 19-11-405. Acts 1949, No. 228, § 3; 1983, No. 862, § 2; A.S.A. 1947, § 14-115; Acts 1987, No. 758, § 3.

SUBCHAPTER 5 — PURCHASES OF WORKSHOP-MADE PRODUCTS AND SERVICES

SECTION.
19-11-501 — 19-11-504. [Repealed.]

19-11-501 — 19-11-504. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2001, No. 1718, § 2. The subchapter was derived from the following sources:

19-11-501. Acts 1973, No. 405, § 1; A.S.A. 1947, § 14-229; Acts 1991, No. 853, § 1.

19-11-502. Acts 1973, No. 405, § 2; A.S.A. 1947, § 14-230; Acts 1991, No. 853, § 2.

19-11-503. Acts 1973, No. 405, § 3; A.S.A. 1947, § 14-231; Acts 1991, No. 853, § 3.

19-11-504. Acts 1973, No. 405, § 4; A.S.A. 1947, § 14-232; Acts 1991, No. 853, § 4; 1995, No. 1296, § 76; 2001, No. 961, § 8.

Section 19-11-504 was amended by Acts 2001, No. 961, and repealed by Acts 2001, No. 1718. The repeal by Acts 2001, No. 1718 was deemed to supersede the amendment by Acts 2001, No. 961

As amended by Acts 2001, No. 961, § 8, § 19-11-504 was amended to read as follows:

“(1)(G)(i) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

“(1)(G)(ii) This term shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of Arkansas State Building Services or public institutions of higher education;”

SUBCHAPTER 6 — FEDERAL GOVERNMENT SURPLUS PROPERTY

SECTION.
19-11-601. Authority to transfer to state and local agencies.
19-11-602. Purchase for schools and school districts.

SECTION.
19-11-603. Service charge.
19-11-604. Rural water associations.

Effective Dates. Acts 1951, No. 353, § 5: approved Mar. 20, 1951. Emergency clause provided: “Whereas, the immediate transfer of available government properties to eligible claimants as provided in Public Laws 152 and 754 by the 81st Congress is paramount to the establishment of an adequate civil defense program for the protection of the people of this State during the present national emergency; and

“Whereas, immediate action is needed by the State Board of Education for the transfer of available properties; now

“Therefore, this Act being necessary for the immediate preservation of the public peace, health, and safety, an emergency is hereby declared to exist and this Act shall

be in full force and effect from and after its passage.”

Acts 1953, No. 384, § 19 [20]: July 1, 1953.

Acts 1988 (3rd Ex. Sess.), No. 7, § 3: Feb. 5, 1988. Emergency clause provided: “It is hereby found and determined by the Seventy-Sixth General Assembly, meeting in the Third Extraordinary Session, that the passage of this Act is necessary to

provide for continued operation of the Vocational and Technical Education Division of the State Department of Education. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

19-11-601. Authority to transfer to state and local agencies.

(a) The State Board of Education is authorized to cooperate with the federal government in the transfer of government surplus property to any and all departments and agencies of state and local government and to any and all other agencies eligible to receive surplus property under Pub. L. No. 81-152 and Pub. L. No. 81-754, and any and all other statutory laws that may be enacted by the Congress of the United States covering the disposal of federal government surplus property.

(b) The state board is authorized to take any and all action necessary to the proper administration of the surplus property program in the acquisition of and the distribution of government surplus properties to eligible claimants in this state, distribution to be in accordance with the appropriate controlling federal statutes.

(c) The state board is authorized to add to the cost of the properties an amount necessary to defray the expenses of this service.

History. Acts 1951, No. 353, §§ 1-3; A.S.A. 1947, §§ 80-135.2 — 80-135.4.

Publisher's Notes. Acts 1987, No. 68, § 1, provided that the Surplus Property Program, § 19-11-601 et seq., which was transferred by a Type 2 transfer to the Department of Finance and Administration, was transferred by a Type 2 transfer to the Vocational and Technical Education

Division of the Department of Education. References to “the State Board of Education” which appear in this subchapter now refer to the Division of Vocational and Technical Education.

U.S. Code. Public Laws 81-152 and 81-754, referred to in this section, are codified as 40 U.S.C. § 101 et seq.

19-11-602. Purchase for schools and school districts.

(a) The State Board of Education is authorized to purchase surplus commodities, materials, supplies, equipment, and other property from the federal government through any of its agencies for tax-supported schools and for school districts in Arkansas. The state board is authorized to cooperate with the State Procurement Director in the purchase of school items.

(b) Schools and school districts desiring to obtain federal surplus materials, equipment, etc., shall make application to the state board on blanks furnished by the board for that purpose.

(c) Schools and school districts making application to the state board to purchase surplus materials, equipment, and other property from the federal government shall pay cash for it by drawing a voucher or warrant in favor of the federal government for the purchase price of such materials.

History. Acts 1945, No. 303, §§ 1-3; 1953, No. 384, § 17 [18]; A.S.A. 1947, §§ 80-132—80-134.

19-11-603. Service charge.

(a) The State Board of Education is authorized to add to the cost of surplus properties secured by the agency for surplus property an amount necessary to defray the expense of this service and to repay into the Revolving Loan Fund loans made to the agency as provided in this section.

(b) The state board is also authorized to establish service charges in such amounts as may be necessary to cover the expenses of the Department of Education in administering special federal service programs for schools and agencies. These charges are to be paid by the school, institution, or agency in the amount designated by the state board.

(c) The state board is authorized and directed to take such action as is necessary to collect such charges and may, in its discretion, withhold from any state moneys over which the state board has control funds necessary to pay the amounts owing by such school districts and agencies.

(d) It is the intention of the General Assembly that the schools and agencies shall pay for such services amounts sufficient to reimburse the state board for expenses incurred in the operation of the Surplus Property Program and in the operation of special federal service programs.

History. Acts 1959, No. 357, § 12; A.S.A. 1947, § 80-135.1.

19-11-604. Rural water associations.

Rural water associations shall be deemed eligible to participate in the federal Surplus Property Program as now administered by the Vocational and Technical Education Division of the Department of Education, or any successor agency.

History. Acts 1988, (3rd Ex. Sess.), No. 7, § 2.

A.C.R.C. Notes. The Vocational and Technical Education Division of the Department of Education was abolished and

transferred to the Department of Workforce Education by a type 3 transfer under § 25-2-106 by Acts 1997, No. 803, § 4.

Cross References. Rural Development Authorities, § 14-188-101 et seq.

SUBCHAPTER 7 — ETHICS

SECTION.

- 19-11-701. Definitions.
- 19-11-702. Penalties.
- 19-11-703. Statement of policy.
- 19-11-704. General standards of ethical conduct.
- 19-11-705. Employee conflict of interest.
- 19-11-706. Employee disclosure requirements.
- 19-11-707. Gratuities and kickbacks.
- 19-11-708. Prohibition against contingent fees.
- 19-11-709. Restrictions on employment of present and former employees.
- 19-11-710. Use of confidential information.
- 19-11-711. Public access to procurement information.
- 19-11-712. Civil and administrative remedies

SECTION.

- edies against employees who breach ethical standards.
- 19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.
- 19-11-714. Recovery of value transferred or received in breach of ethical standards.
- 19-11-715. Duties of Director of Department of Finance and Administration.
- 19-11-716. Participation in business incubators — Regulations and guidelines.
- 19-11-717. Institutions of higher education.

Effective Dates. Acts 1979, No. 483, § 18: became effective at 12:01 a.m., July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that the proper and effective management and control of State government requires that the provisions of this act be implemented at the commencement of the next biennium and this Act being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Act shall become effective at 12:01 a.m. on July 1, 1979."

Acts 2003, No. 1093, § 4: Apr. 4, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that although Arkansas Code § 19-11-709(d) prohibits former state employees from entering into professional or consultant contracts with the state for one (1) year period, the current definitions provide a loophole to this provision, and allows such contracts; that this act is necessary to close this loophole; and that this act is immediately necessary to maintain the integrity of the process and the citizens confidence in awarding public contracts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety

shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 949, § 2: Mar. 18, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a question has arisen concerning the ability of state agencies to contract with business organizations for professional or consultant services in situations where the services will be provided, in whole or in part, by persons who are associated with the business organization and who are also employees of the public institution of higher education; that employees of institutions of higher education engage in research that results in patents, copyrights, or proprietary interests; that under the policies of most institutions of higher education, the patents, copyrights, and proprietary interests are owned by the institution and are often commercialized in a manner that encourages and enhances economic development in the State of Arkansas through business organizations in which the institutions of higher education and some of

their employees have an interest; that it is generally accepted under the policies of public institutions of higher education that employees whose inventions result in patents, copyrights, or other proprietary interests retain a right to receive a portion of the income from commercialization of these inventions and are allowed to devote a portion of their time to outside employment or consulting contracts with the business organizations that have licensed their inventions; that state agencies currently are uncertain whether they may contract for goods or services with business organizations to which employees of institutions of higher education provide services through arrangements related to patents, copyrights, or other proprietary interests; that such uncertainty has the effect of depriving state agencies of the benefit of new technology developments through public institutions of higher education; and that this act is immediately

necessary in order to clarify the law so that state agencies are not unreasonably restricted in their ability to enter into necessary contractual arrangements that have positive impact on the economic development of the State of Arkansas and promote the development of new technologies. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Cross References. The Disclosure Act for Lobbyists and State Officials, § 21-8-401 et seq.

19-11-701. Definitions.

As used in this subchapter:

(1) "Blind trust" means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other dispositions of the property subject to the trust;

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3) "Commodities" means all property, including, but not limited to:

- (A) Equipment;
- (B) Printing;
- (C) Stationery;
- (D) Supplies;
- (E) Insurance; and
- (F) Real property;

(4) "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of this state and is not a matter of public knowledge or available to the public on request;

(5) "Conspicuously" means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it;

(6) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase or disposal of commodities and services. It includes awards and notices of award; contracts of a

fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing;

(7) "Contractor" means any person having a contract with a state agency;

(8) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any state agency;

(9) "Financial interest" means:

(A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;

(B) Ownership of more than a five percent (5%) interest in any business; or

(C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management;

(10) "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received;

(11) "Immediate family" means a spouse, children, parents, brothers and sisters, and grandparents;

(12) "Official responsibility" means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct state action;

(13) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(14) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(15) "Services" means technical, professional, or other services involving the furnishing of labor, time, or effort by a contractor; and

(16) "State agency" means any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.

History. Acts 1979, No. 483, § 1; A.S.A. 1947, § 14-1101; Acts 2003, No. 1093, §§ 1, 2.

Amendments. The 2003 amendment rewrote (3); and, in (15), substituted "tech-

nical, professional, or other services involving the furnishing of labor, time, or effort by a contractor; and" for "services as defined in the Arkansas Purchasing Law, § 19-11-201 et seq."

19-11-702. Penalties.

Any employee or nonemployee who shall knowingly violate any of the provisions of this subchapter shall be guilty of a felony and upon conviction shall be fined in any sum not to exceed ten thousand dollars (\$10,000) or shall be imprisoned not less than one (1) nor more than five (5) years, or shall be punished by both.

History. Acts 1979, No. 483, § 15; A.S.A. 1947, § 14-1115; Acts 1995, No. 1296, § 77.

19-11-703. Statement of policy.

(a) Public employment is a public trust. It is the policy of the state to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the state. The policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

(b) Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the state procurement organization.

(c) To achieve the purpose of this subchapter, it is essential that those doing business with the state also observe the ethical standards prescribed in this subchapter.

History. Acts 1979, No. 483, § 2; A.S.A. 1947, § 14-1102.

19-11-704. General standards of ethical conduct.

(a)(1) **GENERAL ETHICAL STANDARDS FOR EMPLOYEES.** Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

(2) In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in § 19-11-705, which refers to employee conflict of interest; § 19-11-706, which refers to employee disclosure requirements; § 19-11-707, which refers to gratuities and kickbacks; § 19-11-708, which refers to prohibition against contingent fees; § 19-11-709, which refers to restrictions on employment of present and former employees; and § 19-11-710, which refers to use of confidential information.

(b) **GENERAL ETHICAL STANDARDS FOR NONEMPLOYEES.** Any effort to influence any public employee to breach the standards of ethical conduct set forth in this subchapter is also a breach of ethical standards.

History. Acts 1979, No. 483, § 3; A.S.A. 1947, § 14-1103.

19-11-705. Employee conflict of interest.

(a)(1) **CONFLICT OF INTEREST.** It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge:

(A) The employee or any member of the employee's immediate family has a financial interest;

(B) A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or

(C) Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.

(2) "Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(b) **FINANCIAL INTEREST IN A BLIND TRUST.** Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Director of the Department of Finance and Administration.

(c) **DISCOVERY OF CONFLICT OF INTEREST, DISQUALIFICATION, AND WAIVER.**

Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the director and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the director in accordance with § 19-11-715(b) for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § 19-11-715(c).

History. Acts 1979, No. 483, § 4; A.S.A. 1947, § 14-1104.

19-11-706. Employee disclosure requirements.

(a) **DISCLOSURE OF BENEFIT RECEIVED FROM CONTRACT.** Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Director of the Department of Finance and Administration. However, this section shall not apply to a contract with a business where the

employee's interest in the business has been placed in a disclosed blind trust.

(b) **FAILURE TO DISCLOSE BENEFIT RECEIVED.** Any employee who knows or should have known of such benefit and fails to report the benefit to the director is in breach of the ethical standards of this section.

History. Acts 1979, No. 483, § 5; A.S.A. 1947, § 14-1105.

19-11-707. Gratuities and kickbacks.

(a) **GRATUITIES.** It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(b) **KICKBACKS.** It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.

History. Acts 1979, No. 483, § 6; A.S.A. 1947, § 14-1106.

CASE NOTES

Cited: McCuen v. State, 328 Ark. 46, 941 S.W.2d 397 (1997).

19-11-708. Prohibition against contingent fees.

(a) **CONTINGENT FEES.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

(b) **REPRESENTATION OF CONTRACTOR.** Before being awarded a state contract other than by procedures set forth in the Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated thereunder for small purchases, every person shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards.

(c) NOTICE. The representation prescribed in subsection (b) of this section shall be conspicuously set forth in all contracts and solicitations therefor.

History. Acts 1979, No. 483, § 7; A.S.A. 1947, § 14-1107.

19-11-709. Restrictions on employment of present and former employees.

(a) CONTEMPORANEOUS EMPLOYMENT PROHIBITED. It shall be a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the state agency by which the employee is employed.

(b) RESTRICTIONS ON FORMER EMPLOYEES IN MATTERS CONNECTED WITH THEIR FORMER DUTIES.

(1) PERMANENT DISQUALIFICATION OF FORMER EMPLOYEE PERSONALLY INVOLVED IN A PARTICULAR MATTER. It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy,

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the state is a party or has a direct and substantial interest.

(2) ONE-YEAR REPRESENTATION RESTRICTION REGARDING MATTERS FOR WHICH A FORMER EMPLOYEE WAS OFFICIALLY RESPONSIBLE. It shall be a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy,

knowingly to act as a principal or as an agent for anyone other than the state in matters which were within the former employee's official responsibility, where the state is a party or has a direct or substantial interest.

(c) DISQUALIFICATION OF PARTNERS.

(1) WHEN PARTNER IS A STATE EMPLOYEE. It shall be a breach of ethical standards for a person who is a partner of an employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

- (B) Contract;
- (C) Claim; or
- (D) Charge or controversy,

in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the state is a party or has a direct and substantial interest.

(2) **WHEN A PARTNER IS A FORMER STATE EMPLOYEE.** It shall be a breach of ethical standards for a partner of a former employee knowingly to act as a principal or as an agent for anyone other than the state where such former employee is barred under subsection (b) of this section.

(d) **SELLING TO STATE AFTER TERMINATION OF EMPLOYMENT IS PROHIBITED.**

(1) It shall be a breach of ethical standards for any former employee, unless the former employee's last annual salary did not exceed ten thousand five hundred dollars (\$10,500), to engage in selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased.

(2) As used in this subsection, "sell" means:

- (A) Signing a bid, proposal, or contract;
- (B) Negotiating a contract;
- (C) Contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract;
- (D) Settling disputes concerning performance of a contract; or
- (E) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract for the sale is subsequently negotiated by another person.

(e)(1) This section is not intended to preclude a former employee from accepting employment with private industry solely because his or her employer is a contractor with this state.

(2) This section is not intended to preclude an employee, a former employee, or a partner of an employee or former employee from filing an action as a taxpayer for alleged violations of this subchapter.

History. Acts 1979, No. 483, § 8; A.S.A. inserted "including technical or professional consultant services" in (d)(1).
1947, § 14-1108; Acts 2003, No. 1093, § 3.

Amendments. The 2003 amendment

19-11-710. Use of confidential information.

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

History. Acts 1979, No. 483, § 9; A.S.A.
1947, § 14-1109.

19-11-711. Public access to procurement information.

Procurement information shall be public record to the extent provided in the Freedom of Information Act of 1967, § 25-19-101 et seq., except as otherwise provided in this subchapter and the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 1979, No. 483, § 10;
A.S.A. 1947, § 14-1110.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 741.

19-11-712. Civil and administrative remedies against employees who breach ethical standards.

(a) **EXISTING REMEDIES NOT IMPAIRED.** Civil and administrative remedies against employees which are in existence on July 1, 1979, shall not be impaired.

(b) **SUPPLEMENTAL REMEDIES.** In addition to existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated thereunder, the Director of the Department of Finance and Administration may impose any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Forfeiture of pay without suspension;
- (3) Suspension with or without pay for specified periods of time; and
- (4) Termination of employment.

(c) **RIGHT TO RECOVER FROM EMPLOYEE VALUE RECEIVED IN BREACH OF ETHICAL STANDARDS.** The value of anything received by an employee in breach of the ethical standards of this subchapter, or regulations promulgated thereunder, shall be recoverable by the state as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) **DUE PROCESS.** Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

History. Acts 1979, No. 483, § 11;
A.S.A. 1947, § 14-1111.

19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.

(a) **EXISTING REMEDIES NOT IMPAIRED.** Civil and administrative remedies against nonemployees which are in existence on July 1, 1979, shall not be impaired.

(b) **SUPPLEMENTAL REMEDIES.** In addition to the existing remedies for breach of the ethical standards of this subchapter, or regulations

promulgated thereunder, the Director of the Department of Finance and Administration may impose any one or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Termination of transactions; and
- (3) Suspension or debarment from being a contractor or subcontractor under state contracts.

(c) **RIGHT TO RECOVER FROM NONEMPLOYEE VALUE TRANSFERRED IN BREACH OF ETHICAL STANDARDS.** The value of anything transferred in breach of the ethical standards of this subchapter, or regulations promulgated thereunder, by a nonemployee shall be recoverable by the state from such person as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) **DUE PROCESS.** Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

History. Acts 1979, No. 483, § 12;
A.S.A. 1947, § 14-1112.

19-11-714. Recovery of value transferred or received in breach of ethical standards.

(a) **GENERAL PROVISIONS.** The value of anything transferred or received in breach of the ethical standards of this subchapter, or regulations promulgated thereunder, by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

(b) **RECOVERY OF KICKBACKS BY THE STATE.** Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the state and will be recoverable under this subchapter from the recipient. In addition, this value may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

History. Acts 1979, No. 483, § 13;
A.S.A. 1947, § 14-1113.

19-11-715. Duties of Director of Department of Finance and Administration.

(a) **REGULATIONS.** The Director of the Department of Finance and Administration shall promulgate regulations to implement this subchapter and shall do so in accordance with this subchapter and the applicable provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) **ADVISORY OPINIONS.** On written request of employees or contractors and in consultation with the Attorney General, the director may render written advisory opinions regarding the appropriateness of the

course of conduct to be followed in proposed transactions. Such requests and advisory opinions may be duly published in the manner in which regulations of this state are published. Compliance with the requirements of a duly promulgated advisory opinion of the director shall be deemed to constitute compliance with the ethical standards of this subchapter.

(c) **WAIVER.** On written request of an employee, the director may grant an employee a written waiver from the application of § 19-11-705, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the state so require or when the ethical conflict is insubstantial or remote.

History. Acts 1979, No. 483, § 14;
A.S.A. 1947, § 14-1114.

19-11-716. Participation in business incubators — Regulations and guidelines.

(a) The provisions of this subchapter shall not be applicable to faculty or staff of state-supported institutions of higher education participating in business incubators within this state.

(b)(1) The Director of the Department of Finance and Administration shall promulgate rules and regulations pursuant to the procedure for adoption as provided under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a program allowing admittance to business incubators by faculty or staff of state-supported institutions of higher education or admittance by companies in which faculty or staff may hold an ownership interest.

(2) The program may include guidelines setting forth full disclosure requirements, any limitations on ownership interests, maximum income amounts to be received, annual reporting to the General Assembly, mandatory levels of student participation and such other reasonable restrictions and requirements as are necessary to maintain the public trust while encouraging the facilitation of commercialization of university-generated technology or discovery.

History. Acts 1989, No. 29, § 1.

19-11-717. Institutions of higher education.

(a) Notwithstanding anything in this subchapter to the contrary, if, in either of the events in subdivisions (a)(1) and (2) of this section, the contract or subcontract, solicitation, or proposal involves patents, copyrights, or other proprietary information in which an institution of higher education and an employee or former employee of the institution have rights or interests, provided that any contract or subcontract shall be approved by the governing board of the institution in a public

meeting, it shall not be a violation of § 19-11-709, a conflict of interest, or a breach of ethical standards for:

(1) The institution to contract with a person or firm in which an employee or former employee of the institution has a financial interest; or

(2) The employee or former employee of the institution to participate directly or indirectly in any matter pertaining to any contract or subcontract or any solicitation or proposal for any contract or subcontract between the institution and a person or firm in which the employee or former employee has a financial interest.

(b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq., or in § 19-11-1001 et seq., shall prevent a state agency from contracting for goods or services, including professional or consultant services, with an organization that employs or contracts with a regular, full-time, or part-time employee of a public institution of higher education in situations in which the employee of the public institution of higher education will provide some or all of the goods or services under the contract.

(2) Any organization or state agency entering into a contract described under this subsection shall comply with the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq., to the extent that the provisions do not conflict with this section.

(3) An employee of a public institution of higher education who provides goods or services to a state agency through his or her association with an organization that has a contract with the state agency to provide goods or services shall obtain the requisite approvals under the policies of the public institution of higher education by which he or she is employed and comply with all provisions of this subchapter.

History. Acts 1989, No. 875, § 1; 2005, No. 949, § 1.

Amendments. The 2005 amendment added (b).

SUBCHAPTER 8 — PROCUREMENT OF PROFESSIONAL SERVICES

SECTION.

19-11-801. Policy — Definitions.

19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

SECTION.

19-11-803. Evaluation of qualifications.

19-11-804. Selection.

19-11-805. Negotiation of contracts.

19-11-806. [Repealed.]

19-11-807. Design-build construction.

Effective Dates. Acts 1995, No. 429, § 8; Feb. 24, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state and political subdivisions are hampered in the ability to select the most qualified professional services since the present statutory definition of professional ser-

vices excludes many professions that are vital to the successful completion of important public projects. Since each public entity is better able to determine which professional services it will need and since the public health, safety and welfare require that many of these public projects proceed as soon as possible, an emergency

is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 1331, § 8: became law without Governor’s signature. Noted April 14, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the state and its political subdivisions are hampered in the ability to select the most qualified professional services since the present statutory definition of professional services excludes many professions that are vital to the successful completion of important public projects. Since each public entity is better able to determine which professional services it will need and since the public health, safety and welfare require that many of these public projects proceed as soon as possible, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 2005, No. 2154, § 2: Apr. 13, 2005. Emergency clause provided: “It is hereby

found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school facilities in Arkansas are inadequate and inequitable; that the clarification of construction management as a project delivery method will increase the construction options of public schools entering into construction projects to improve their school facilities and assist in the process of improving current school facilities; and that the improvements to public school facilities through the use of construction management will ultimately benefit public school students and the state of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

19-11-801. Policy — Definitions.

(a) It is the policy of the State of Arkansas that state agencies shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, architectural, engineering, construction management, and land surveying professional consultant services if:

(1) State agencies not exempt from review and approval of the Arkansas Building Authority shall follow procedures established by the authority for the procurement of architectural, engineering, land surveying, and construction management services; and

(2) Institutions of higher education exempt from review and approval of the authority shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying, and construction management professional consultant services.

(b) It is the policy of the State of Arkansas and its political subdivisions that political subdivisions shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.

(c) For purposes of this subchapter, a political subdivision of the state may elect to not use competitive bidding for other professional services not listed in subsection (b) of this section with a two-thirds ($\frac{2}{3}$) vote of the political subdivision's governing body.

(d)(1) As used in this section, "construction management" means a project delivery method based on an agreement in which a state agency, political subdivision, public school district, or institution of higher education acquires from a construction entity a series of services that include, but are not limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

(2) "Construction management" includes, but is not limited to:

(A)(i) "Agency construction management", in which a public school district selects a construction manager to serve as an agent for the purpose of providing administration and management services.

(ii) The construction manager shall not hold subcontracts for the project or provide project bonding for the project;

(B) "At-risk construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor and the following conditions are met:

(i) The construction manager provides a maximum guaranteed price;

(ii) The public school district holds all trade contracts and purchase orders; and

(iii) The portion of the project not covered by the trade contracts is bonded and guaranteed by the construction manager; and

(C)(i) "General contractor construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor.

(ii) The general contractor shall hold all trade contracts and purchase orders and shall bond and guarantee the project.

(e) As used in this subchapter:

(1) "Political subdivision" means counties, school districts, cities of the first class, cities of the second class, and incorporated towns; and

(2) "Other professional services" means professional services not listed in subsection (b) of this section as defined by a political subdivision with a two-thirds ($\frac{2}{3}$) vote of its governing body.

History. Acts 1989, No. 616, § 1; 1995, No. 429, § 1; 1995, No. 1331, § 1; 2003, No. 1315, § 8; 2005, No. 2154, § 1; 2005, No. 2171, § 1.

Amendments. The 2003 amendment rewrote (a); and deleted (c).

The 2005 amendment by No. 2154 inserted present (a) and made related changes.

The 2005 amendment by No. 2171 substituted "that state agencies" for "and its political subdivisions that state agencies and political subdivisions" in (a); rewrote (b); and added (c) and (d).

CASE NOTES

ANALYSIS

In General.

Bid.

Competitive Bidding.

Consideration of Price.

In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The contracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Bid.

The term "bid" generally refers to an offer to perform a contract for work and

labor or supplying materials or goods at a specified price. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Competitive Bidding.

Competitive bidding is defined as bids which are submitted as a result of public notice and advertising of an intended sale or purchase. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

(a) In the procurement of professional services, a state agency or political subdivision which utilizes these services may encourage firms engaged in the lawful practice of these professions to submit annual statements of qualifications and performance data to the political subdivision or may request such information as needed for a particular public project.

(b) The state agency or political subdivision shall evaluate current statements of qualifications and performance data of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c)(1) The political subdivision shall not use competitive bidding for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consulting services.

(2) A political subdivision shall not use competitive bidding for the procurement of other professional services with a two-thirds ($\frac{2}{3}$) vote of its governing body.

(d)(1) A public school district that utilizes construction management services shall encourage construction management firms to submit to

the school district annual statements of qualifications and performance data or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications and performance data on file with the school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

History. Acts 1989, No. 616, § 2; 1995, No. 429, § 2; 1995, No. 1331, § 2; 2003, No. 1315, § 9; 2005, No. 2171, § 2.

Amendments. The 2003 amendment inserted “state agency or” in (a) and (b); made a stylistic change in (a); and substituted “legal, architectural, engineering,

construction management, and land surveying professional consulting services” for “professional services” in (c).

The 2005 amendment redesignated former (c) as present (c)(1); inserted “financial advisory” in present (c)(1); and added (c)(2).

CASE NOTES

Cited: *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-803. Evaluation of qualifications.

In evaluating the qualifications of each firm, the state agency or political subdivision shall consider:

(1) The specialized experience and technical competence of the firm with respect to the type of professional services required;

(2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

(4) The firm’s proximity to and familiarity with the area in which the project is located.

History. Acts 1989, No. 616, § 3; 2003, No. 1315, § 10.

Amendments. The 2003 amendment

inserted “state agency or” preceding “political” in the introductory paragraph.

CASE NOTES

Cited: *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-804. Selection.

(a) The state agency or political subdivision shall select three (3) qualified firms.

(b) The state agency or political subdivision shall then select the firm considered the best-qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

History. Acts 1989, No. 616, § 4; 2003, No. 1315, § 11. inserted subdivision designations, and inserted “state agency or” preceding “political” in (a) and (b).

Amendments. The 2003 amendment

CASE NOTES**ANALYSIS**

Competitive Bidding.
Consideration of Price.

Competitive Bidding.

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-805. Negotiation of contracts.

(a) For the basis of negotiations, the state agency or political subdivisions and the selected firm shall jointly prepare a detailed, written description of the scope of the proposed services.

(b)(1)(A) If the state agency or political subdivision is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated.

(B) The state agency or political subdivision shall then undertake negotiations with another of the qualified firms selected.

(2)(A) If there is a failing of accord with the second firm, negotiations with the firm shall be terminated.

(B) The state agency or political subdivision shall undertake negotiations with the third qualified firm.

(c) If the state agency or political subdivision is unable to negotiate a contract with any of the selected firms, the state agency or political subdivision shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of this subchapter.

(d) When unable to negotiate a contract for construction management, a public school district shall also perform a reevaluation of services in accordance with subsection (c) of this section.

History. Acts 1989, No. 616, § 5; 1995, No. 429, § 3; 1995, No. 1331, § 3; 2003, No. 1315, § 12.

Amendments. The 2003 amendment

inserted “state agency or” in (a), (b)(1)(A), (b)(1)(B), (b)(2)(B) and (c); and substituted “the” for “such” in (b)(2)(A).

CASE NOTES

In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The con-

tracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-806. [Repealed.]

Publisher's Notes. This section, concerning cities of the first or second class and ordinances, was repealed by Acts

2005, No. 3, § 3. The section was derived from Acts 1995, No. 429, § 4; 1995, No. 1331, § 4.

19-11-807. Design-build construction.

(a) As used in this section:

(1) “Design-build” means a project delivery method in which the school district acquires both design and construction services in the same contract from a single legal entity, referred to as the “design-builder”, without competitive bidding;

(2)(A) “Design-builder” means any individual, partnership, joint venture, corporation, or other legal entity that is appropriately licensed in the State of Arkansas and that furnishes the necessary design services, in addition to the construction of the work, whether by itself or through subcontracts, including, but not limited to, subcontracts for architectural services, landscape architectural services, and engineering services.

(B) Architectural services, landscape architectural services, and engineering services shall be performed by an architect, landscape architect, or engineer licensed in the State of Arkansas.

(C) Construction contracting shall be performed by a contractor qualified and licensed under Arkansas law; and

(3) “Design-build contract” means the contract between the school district and a design-builder to furnish the architecture, engineering, and related services as required and to furnish the labor, materials, and other construction services for the same project.

(b)(1) Any school district may use design-build construction as a project delivery method for building, altering, repairing, improving, maintaining, or demolishing any structure, or any improvement to real property owned by the school district.

(2) The design-builder shall contract directly with subcontractors and shall be responsible for the bonding of the project.

(3) A project using design-build construction shall comply with state and federal law.

(c) The Division of Public School Academic Facilities and Transportation of the Department of Education shall develop and promulgate rules consistent with the provisions of this section concerning the use of design-build construction by school districts.

History. Acts 2005, No. 2155, § 1.

SUBCHAPTER 9 — PURCHASES OF DISABLED WORK CENTER PRODUCTS AND SERVICES

SECTION.

19-11-901. Purchase required — Exception.

SECTION.

19-11-902. Rules.

19-11-901. Purchase required — Exception.

(a) All suitable commodities and services, including small purchases, hereafter procured in accordance with applicable state specifications by or for any state department, institution, or agency shall be procured from nonprofit work centers for individuals with disabilities in all cases when such commodities are available within the period specified and at the fair market price for the article or articles so procured.

(b) Services offered by work centers shall be procured by competitive sealed bidding as specified by § 19-11-229, competitive sealed proposals as specified by § 19-11-230, or competitive bidding as specified by § 19-11-234, subject to purchase exceptions set forth in § 19-11-902.

(c) This section shall not apply in any cases in which products and services are available for procurement from any state department, institution, or agency, and procurement therefrom is required under the provisions of any law in effect on or after March 1, 1991.

History. Acts 2001, No. 1718, § 1.

19-11-902. Rules.

(a) The Office of State Procurement shall be responsible for developing rules governing implementation of this subchapter.

(b) As used in this subchapter:

(1) “Arkansas Rehabilitation Services” means the Arkansas Rehabilitation Services of the Department of Workforce Education;

(2) “Commodities” means all property, including, but not limited to, equipment, printing, stationery, supplies, and insurance, but excluding real property, leases on real property, or a permanent interest in real property;

(3) “Disabled individuals” means those persons who have a medically or psychiatrically determined physical, mental, or developmental disability constituting a substantial vocational handicap;

(4) "Fiscal year" means July 1 of one (1) year through June 30 of the next year;

(5) "Ordering office" means any state department, independent establishment, board, commission, bureau, service, or division of state government and any wholly owned state corporation;

(6) "Products", for purposes of this subchapter, means commodities or services wherein the price of the commodities includes at least twenty percent (20%) value added when the work center is awarded a contract using the ten percent (10%) preference, and in the case of services, that they are performed by individuals with disabilities;

(7)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of Arkansas Building Authority;

(8) "Sheltered workshop" means a work center which has:

(A) Certification from the United States Department of Labor as a sheltered workshop; and

(B) Been licensed by the Division of Developmental Disabilities Services of the Department of Human Services or certification from Arkansas Rehabilitation Services; and

(9)(A) "Work center" means any facility certified by the Arkansas Rehabilitation Services where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing evaluation, training, and gainful employment to individuals with disabilities of Arkansas:

(i) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or

(ii) During such time as employment opportunities for them in the competitive labor market do not exist.

(B) "Work center" includes a sheltered work center.

(c) All state agencies as defined in § 19-11-203 are required to purchase their requirements of needed available and suitable products and purchase suitable services from nonprofit work centers for individuals with disabilities, unless such commodities and services are authorized by prior legislation for production in another state agency, department, or institution.

(d)(1) The Office of State Procurement shall issue to all agency purchasing agents a schedule of work center-made commodities and services and the conditions under which they are to be procured from the workshops.

(2) The schedule shall include the item or service description.

(e) Arkansas Rehabilitation Services shall undertake the inspection on a continuing basis of the workshops certified by Arkansas Rehabilitation Services to determine that they operate in accordance with the requirements of the statute and the regulations of this section.

(f)(1)(A) In order to qualify for participation in the program as a work center, an organization shall submit an application to the office.

(B) If required for all vendors, there should be included a list of the commodities and services offered for sale to the state.

(2) Work centers shall:

(A) Furnish commodities and services in strict accordance with the allocation and government order;

(B) Maintain records of wages paid, hours of employment, and sales;

(C) Make available pertinent books and records of the agency for inspection at any reasonable time to representatives of Arkansas Rehabilitation Services; and

(D)(i) Submit to Arkansas Rehabilitation Services by September 1 an annual report for the preceding fiscal year.

(ii) This report shall include data on individuals with disabilities who are workers, wages and wage supplements, hours of employment, sales, whether the workshop requires a facilities sheltered workshop certificate from the United States Department of Labor and special minimum rates authorized where such certificate is held and such other relevant information as may be required.

(g) When a commodity or service is identified in the schedule of work center-made commodities and services as being available through the office, it shall be obtained in accordance with the requisitioning procedures of the supplying agency.

(h) An ordering office may purchase from a nonworkshop source commodities or services listed in the schedule of work center-made commodities and services in any of the following circumstances:

(1) Necessity requires delivery within the specified period, and the work center cannot give assurance of positive availability;

(2) When commodities listed on the schedule of work center-made commodities can be purchased from a nonwork center source by the agency for a price more than ten percent (10%) lower than work center-made commodities included in the schedule;

(3) Services offered by any work center shall be procured by any agency in accordance with this section at a price not more than ten percent (10%) above the lowest price submitted from a nonwork center source.

(i) Work center-made product commodities will be delivered in accordance with the terms of the purchase order.

(j) When a workshop fails to comply with the terms of a government order, the ordering office shall make reasonable efforts to negotiate an adjustment before taking action to cancel the order.

(k) Any alleged violation of these regulations shall be investigated by the office, which shall notify the work center concerned and afford it an opportunity to submit a statement of facts and evidence.

section heading and in (a); and substituted “Arkansas Building Authority” for Arkansas State Building Services” in (b)(7)(B).

SUBCHAPTER 10 — PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS

SECTION.

- 19-11-1001. Definitions.
- 19-11-1002. Purpose of contracts.
- 19-11-1003. Contracts exempted.
- 19-11-1004. Restrictions on contracts.
- 19-11-1005. General guidelines and regulations.
- 19-11-1006. Submission of contracts required.

SECTION.

- 19-11-1007. Certification by agency head.
- 19-11-1008. Approval or disapproval of contracts.
- 19-11-1009. Filing of contracts.
- 19-11-1010. Development and use of performance-based contracts.
- 19-11-1011. Review requirement.
- 19-11-1012. Standard contract forms.

19-11-1001. Definitions.

As used in this subchapter:

(1) “Consultant services contract” means a contract between a state agency and an individual or organization in which:

(A) The service to be rendered to the state agency or to a third-party beneficiary under the contract is primarily the giving of advice by the contractor on a particular problem facing the state agency or the third-party beneficiary;

(B) The contractor is an independent contractor with respect to the state agency;

(C) The state agency does not exercise managerial control over the day-to-day activities of the contractor; and

(D) The contract specifies the results expected from the services to be rendered by the contractor and the advice or assistance to be provided;

(2) “Contractor” means any person or organization that executes a contract with a state agency under which the person or organization agrees to provide professional services or consultant services to the state agency, and the individuals performing the services are not state employees occupying regular full-time or part-time or extra help positions provided by law;

(3)(A) “Design professional contract” means a contract that is primarily for:

(i) Minor projects that are time critical; and

(ii) Minor remodeling projects that do not exceed one million dollars (\$1,000,000) in cost.

(B) Design professional contracts are primarily for the procurement of architectural, engineering, and professional services competitively selected under § 19-11-801 et seq.

(C) Design professional contracts shall be reviewed by the agency or institution at least yearly and adjusted to reflect historical expenditures.

(D) State agencies shall follow applicable Arkansas Building Authority guidelines and procedures.

(E) Institutions of higher education that are exempt from review and approval of the Arkansas Building Authority shall comply with the provisions of this section;

(4) "Director" means the State Procurement Director;

(5) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing professional services for any state agency;

(6) "Professional services contract" means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary; and

(7) "State agency" means any department, agency, board, commission, or institution of higher education of the State of Arkansas.

History. Acts 2003, No. 1315, § 13; added (3) and redesignated the remaining subdivisions accordingly.
2007, No. 478, § 7.

Amendments. The 2007 amendment

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Professional and Consultant Services, 26 U. Legislation, 2003 Arkansas General Assembly, Public Finance, Contracts for Professional and Consultant Services, 26 U. Ark. Little Rock L. Rev. 461.

19-11-1002. Purpose of contracts.

The principal purpose of a professional services contract or a consultant services contract is the procurement of services by the state agency rather than the procurement of commodities.

History. Acts 2003, No. 1315, § 13; substituted "procurement of services" for "procurement of the services of an individual."
2005, No. 1680, § 14.

Amendments. The 2005 amendment

19-11-1003. Contracts exempted.

(a) This subchapter shall not apply to the contracts of the Arkansas State Highway and Transportation Department that are covered by the technical work requirements and administrative controls of the Federal Highway Administration, nor shall the provisions of this subchapter be applicable to contracts entered into by the department in which the costs and fees are established by competitive bidding.

(b) This subchapter shall not apply to contracts of institutions of higher education that are for services related to patents, copyrights, or trademarks.

(c) This subchapter does not apply to contracts created under federally approved state plans for services reimbursed under Title V of the Social Security Act, 42 U.S.C. §§ 701 — 710, or Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 — 1396v, as they existed on January 1, 2001, if those contracts and services conform to all applicable federal laws and rules, and to the ethical standards provided for in § 19-11-704.

History. Acts 2003, No. 1315, § 13.

19-11-1004. Restrictions on contracts.

(a) No contract under this subchapter shall be used to avoid the purpose or the spirit of the General Accounting and Budgetary Procedures Law of Arkansas, § 19-4-101 et seq.

(b) No contract shall be approved that would be in violation of § 19-4-701 et seq. relating to expenditures.

(c)(1) Except as provided in this subsection, no state agency shall engage in a professional services or consultant services contract with a part-time or full-time employee who occupies a position authorized to be paid from extra help or regular salaries for a state agency, except as provided in § 21-1-403.

(2) However, this subsection does not prohibit an institution of higher education from executing a contract with a state agency under which professional or consulting services will be performed by employees of the institution of higher education.

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the Office of Personnel Management of the Department of Finance and Administration concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized by law for the employee's position with the institution of higher education.

(d) No director or any other department head of any state agency shall receive additional compensation under this subchapter.

(e)(1) Any contract under which a state agency retains day-to-day managerial control over the person performing the services or in which the relationship between the contractor and the state agency is that of employer and employee is not a professional services contract and is prohibited.

(2) However, the Department of Information Services may employ persons over whom they exercise day-to-day managerial control for those services under § 25-4-112 for which professional services contracts may be used.

History. Acts 2003, No. 1315, § 13.

19-11-1005. General guidelines and regulations.

The State Procurement Director, after soliciting suggestions from state agencies and after seeking and receiving the advice of the Attorney General and review by the Legislative Council or by the Joint Budget Committee, if the General Assembly is in session, shall publish general guidelines for the procurement of professional and consultant services contracts and general regulations governing the use of each type of contract.

History. Acts 2003, No. 1315, § 13.

19-11-1006. Submission of contracts required.

(a)(1) All contracts for professional services or consultant services, except for those which are specifically exempt from review, requiring the services of an individual for regular full-time or part-time weekly work where the total contract amount exceeds twenty-five thousand dollars (\$25,000) must be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract.

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with their review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Finance and Administration has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this subchapter.

(c)(1) Funds from grants and contracts to any state institution of higher education may be used for the purpose of subcontracting with institutions under the performance conditions of the grants or contracts.

(2) Subcontracts for research that are derived from grants and contracts to any state institution of higher education require the prior approval of the director and a review by the Legislative Council or by the Joint Budget Committee.

History. Acts 2003, No. 1315, § 13.

19-11-1007. Certification by agency head.

The head of every state agency shall certify by his or her signature on each contract entered into by that state agency that:

- (1) All information required by law and by regulation is supplied;
- (2) The proper contracting form is utilized;
- (3) All information contained in the contract is true and correct to the best of his or her knowledge and belief;
- (4) All general guidelines prescribed by the State Procurement Director have been complied with;
- (5) The services proposed to be provided under the contract are necessary for operation of the state agency in fulfilling its legal responsibilities and cannot be provided by any existing state agency;
- (6) The contractor is fully qualified to perform the contract and has no vested interest in the subject matter of the contract that would constitute a conflict of interest and a bar to the contractor's providing services of a professional and disinterested quality;
- (7) The contract terms are reasonable and the benefits to be derived are sufficient to warrant the expenditure of the funds called for in the contract;
- (8) Sufficient funds are available to pay the obligations when they become due; and
- (9) A projected total cost of the contract is provided to include expenditures that may be incurred under all available periods of extension if the extensions were executed.

History. Acts 2003, No. 1315, § 13; added (8) and (9) and made related changes.
2005, No. 1680, § 15.

Amendments. The 2005 amendment

19-11-1008. Approval or disapproval of contracts.

(a) The State Procurement Director may make whatever additional inquiry he or she deems necessary and may require that additional information be supplied if he or she has reason to believe that the contract should be rejected because it does not comply with this subchapter.

(b) The director shall return to the contracting state agency any contract which fails to comply with the applicable laws and regulations governing the contract and shall approve any contract that complies with this subchapter.

(c)(1) The director shall have final and ultimate authority over the supervision and approval of all contracts described in this subchapter.

(2) However, the director shall seek review of the Legislative Council or the Joint Budget Committee before approving or disapproving any contract or class or group of contracts authorized under this subchapter, unless the Legislative Council or Joint Budget Committee specifically exempts the contract or class or group of contracts by formal committee action.

History. Acts 2003, No. 1315, § 13.

19-11-1009. Filing of contracts.

Service contracts filed with a state agency under § 19-4-1109 shall be available for public inspection and auditing purposes.

History. Acts 2003, No. 1315, § 13.

19-11-1010. Development and use of performance-based contracts.

(a) Performance-based contracts provide an effective, efficient method of monitoring and evaluating the overall quality of services provided.

(b) The practice of including benchmark objectives that the provider must attain at specific intervals during the term of the contract is an essential requirement for measuring performance.

(c) Under regulations promulgated by the State Procurement Director, all state agencies, boards, commissions, and institutions of higher education shall use performance-based standards in professional and consultant service contracts.

History. Acts 2003, No. 1315, § 13.

19-11-1011. Review requirement.

(a)(1) Every contract for professional consultant services covered by this subchapter that is executed using the professional and consultant service contract form approved by the State Procurement Director shall be filed with the Office of State Procurement of the Department of Finance and Administration.

(2) The execution date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract is to begin and not the date upon which the agreement was made.

(b)(1) No purchase order shall be paid if a copy of the contract under which the payment is being made has not previously been filed with the Office of State Procurement.

(2) No payment shall be made covering services rendered prior to the execution date of the contract.

(c)(1) It is the intent of the General Assembly that this section be strictly construed and enforced.

(2) However, in the unusual event that an obligation has been incurred by a state agency under any contractual agreement or proposed contract prior to the approval of the contract, the Chief Fiscal Officer of the State may approve payment for such services after having first received the review of the Legislative Council.

History. Acts 2003, No. 1315, § 13;
2005, No. 1680, § 16.

Amendments. The 2005 amendment substituted "for professional consultant ...

shall be filed" for "services covered by this subchapter shall be filed" in (a)(1).

19-11-1012. Standard contract forms.

(a) The State Procurement Director shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items, plus such additional items as the director shall deem desirable for the purposes of this subchapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the state agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars which the state agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6)(A) The names of all individuals who will be supplying services to the state agency or to third-party beneficiaries under the terms of the contracts, so far as those names are known to the contractor at the time of the execution of the contract.

(B) If the names of all individuals supplying services under the contract are not available at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) When the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8)(A) A certification signed by the contractor shall be included as follows:

"_____ (name) _____ (title)

I _____, certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract."

(B) As used in subdivision (b)(8)(A) of this section, it shall be understood that when the contractor is a widely held public corporation "direct or indirect monetary benefit" shall not apply to any regular corporate dividends paid to a stockholder of the corporation who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9)(A) For any contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed

twenty-five thousand dollars (\$25,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the director.

(B)(i) However, should the state agency enter into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract which utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the director.

(ii) This reporting shall be done to allow the director to determine whether the state agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate regulations;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause:

“In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes.

“This provision shall not be construed to abridge any other right of termination the agency may have.”

(c) For the purpose of reporting methods of finance, a state agency shall disclose the total estimated project cost in addition to any other reporting requirements of the Legislative Council or the Joint Budget Committee.

History. Acts 2003, No. 1315, § 13; 2005, No. 1680, § 17.

Amendments. The 2005 amendment deleted “and social security numbers” fol-

lowing “The names” in (b)(6)(A) and following “periodically the names” in (b)(6)(B); and added (c).

SUBCHAPTER 11 — PURCHASE OF TECHNOLOGY SYSTEMS

SECTION.

19-11-1101. Contracts.

19-11-1102. Shared Benefit Payment Fund.

Effective Dates. Acts 2003, No. 1095, § 3, Apr. 4, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that there is an urgent need for funding for the purchase of technology to in-

crease efficiency and more effectively administer the areas of government that are charged with the responsibility for administering and collecting revenue for the state; that legislation is needed for enabling state agencies to more quickly

utilize private sector information technologies that pay for themselves directly from a portion of additional state revenues; that there are vendors who will agree to contract with the state to deliver such technology in consideration for the payment of the technology from a portion of the increase in revenue that would result from the use of the more efficient technology solution; that such contracts would not obligate the state to funding and payment of the technology prior to its purchase; that the contracts would provide for payment to vendors only in the event that revenues increased as a result of the implementation and use of the technology solution; and that this act is immediately necessary because there is an urgent need for this technology. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1)

The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state's fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

19-11-1101. Contracts.

(a) An agency procurement official or procurement agent may enter into contracts to acquire technology systems for performing the revenue-generating functions and duties of the agency, including, but not limited to, registration, processing, and collection functions.

(b) Any contract entered into under this subchapter between an agency procurement official or procurement agent and a vendor of technology systems shall provide for:

(1) Payment of the technology systems on the basis of a percentage of the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, for a fixed time period, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system; or

(2) Payment of the technology system on a fixed fee contract basis, the fee to be paid from the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system.

(c)(1) All contracts authorized by this subchapter shall be entered into pursuant to the requirements of the Arkansas Procurement Law, § 19-11-201 et seq., and amendments thereto.

(2) Prior to execution of the contract, the following process shall be followed:

(A) The requesting agency shall request approval from the Chief Fiscal Officer of the State to prepare a request for proposal for a project authorized under this subchapter;

(B) The request shall include the general nature of the project, the anticipated revenues that will be enhanced, and the forecasted revenues for the current biennium;

(C) Upon approval of the Chief Fiscal Officer of the State, the requesting agency shall prepare a request to the Department of Finance and Administration for approval to prepare a request for proposal for a technology project authorized under this subchapter;

(D) The request must include the revenue source or sources that will be increased as a result of the project and the projected revenues for the anticipated life of the project;

(E) The requesting agency shall prepare a request for proposal, with advice and consultation from the department, for the purchase of technology systems on the basis of a portion of the increase in the agency's revenues produced by the technology system; and

(F)(i) The request for proposal may provide that the agency and the vendor may negotiate an amount or baseline upon which the increase in taxes or fees is measured.

(ii) Any contract other than a fixed fee contract shall include a factor in the baseline calculation to account for an increase in taxes or fees due solely to economic factors and not to the use of the technology.

(3) The agency procurement official or procurement agent and the vendor shall negotiate the contract, with the oversight of the department to assist in negotiating an advantageous contract.

(4)(A) The agency director shall submit the proposed contract and a request for new appropriation to the Governor or his or her designee.

(B) The accompanying information will include the methodology used to calculate the baseline amount proposed by the agency and other justifications and information that detail the program and the expected benefits of the agreement.

(C) The Governor or his or her designee shall study the request and determine whether the appropriation requested and the terms of the proposed contract are in strict compliance with this subchapter.

(D)(i) The Governor may approve or modify the request for new appropriation and the proposed contract.

(ii) Any modification of the proposed contract shall be submitted to the vendor for approval.

(5)(A) Upon approval of the shared benefit agreement and new appropriation request, the Governor shall seek the advice and recommendation of the Legislative Council.

(B) Upon review of the Legislative Council, the Governor shall forward a copy of his or her approvals to the agency director and the Chief Fiscal Officer of the State.

(d) After receipt of the Governor's approvals, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section from the Shared Benefit Holding Appropriation.

(e) The requesting agency may utilize these appropriations to implement the approved contract.

(f) Nothing in this section shall prohibit an agency that enters into a contract according to this section from acquiring any goods or services through appropriations for any function or program of that agency not specifically included in any contract entered into according to this section.

(g) The Chief Fiscal Officer of the State may promulgate such rules, regulations, procedures, and guidelines as he or she may deem necessary and proper in order to carry out the provisions of this section.

History. Acts 2003, No. 1095, § 1; deleted “the office of the Executive Chief Information Officer and” preceding “the

Amendments. The 2007 amendment deleted “department” in (c)(2)(E) and (c)(3).

19-11-1102. Shared Benefit Payment Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Shared Benefit Payment Fund”.

(b)(1) All moneys collected under this subchapter shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the state agencies to pay vendors for contracts entered into under this subchapter.

(d) The fund shall consist of the amount of taxes or fees collected for the relevant time period less the baseline amount stated in each technology purchase contract entered into pursuant to § 19-11-1101, which difference is attributable to the implementation and use of the technology systems as provided in the contract and approved under the provisions of § 19-11-1101(c).

(e) As soon as practical after the close of each month during the biennial period beginning July 1, 2003, and thereafter, each agency purchasing official who has a technology purchase contract shall determine the difference between the amount of taxes or fees collected and the contract baseline amount and report these findings to the Chief Fiscal Officer of the State.

(f) The Chief Fiscal Officer of the State shall certify to the Treasurer of State the following:

(1) The amounts determined in subsection (e) of this section for transfer to the fund; and

(2) That portion of the amount determined in subsection (e) of this section which is currently required to be paid to each technology contract vendor.

(g) The Treasurer of State shall make the transfer of the amount determined in subdivision (f)(1) of this section, after making the deduction required from the net special revenues as set out in § 19-5-203(b)(2)(A).

History. Acts 2003, No. 1095, § 2.

SUBCHAPTER 12 — GUARANTEED ENERGY COST SAVINGS ACT

SECTION.

19-11-1201. Title.

19-11-1202. Definitions.

19-11-1203. Energy cost savings measures authorized.

SECTION.

19-11-1204. Method of solicitation.

19-11-1205. Evaluation of proposals.

19-11-1206. Contract requirements.

19-11-1201. Title.

This subchapter shall be known and may be cited as the “Guaranteed Energy Cost Savings Act”.

History. Acts 2005, No. 1761, § 1.

19-11-1202. Definitions.

As used in this subchapter:

(1)(A) “Energy cost savings measure” means:

(i) A new facility that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that:

(a) Do not degrade the level of service or working conditions;

(b) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, as it existed on January 1, 2005; and

(c) Are measured and verified by an independent audit performed by a qualified provider; or

(ii) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that conform with subdivisions (1)(A)(i)(a) and (b) of this section.

(B) “Energy cost savings measure” includes:

(i) Insulation and reduced air infiltration of the building structure, including walls, ceilings, and roofs or systems within the building;

(ii) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(iii) Automated or computerized energy control systems, including computer software and technical data licenses;

(iv) Heating, ventilating, or air conditioning system modifications or replacements;

(v) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

- (vi) Indoor air quality improvements;
- (vii) Energy recovery systems;
- (viii) Electric system improvements;
- (ix) Life safety measures that provide long-term, operating-cost reductions;
- (x) Building operation programs that reduce operating costs;
- (xi) Other energy-conservation-related improvements or equipment, including improvements or equipment related to renewable energy;
- (xii) Water and other natural resources conservation; or
- (xiii) An alteration or measure identified through a comprehensive audit or assessment of new or existing facilities;

(2)(A) “Guaranteed energy cost savings contract” means a contract for the implementation of one (1) or more energy cost savings measures and services provided by qualified energy service companies in which the energy and cost savings achieved by the installed energy project cover all project costs, including financing, over a specified contract term.

(B) “Guaranteed energy cost savings contract” does not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply;

(3) “Operational cost savings” means expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(4) “Public notice” means the same as “public notice” is defined in § 19-11-203;

(5) “Qualified provider” means a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

(A) Is properly licensed in the State of Arkansas;

(B) Is experienced in the design, implementation, financing, and installation of energy cost savings measures; and

(C) Has demonstrated at least five (5) years of experience in the analysis, design, implementation, and installation of energy efficiency and facility improvements; and

(6) “State agency” means the same as “state agency” is defined in § 19-11-203.

History. Acts 2005, No. 1761, § 1.

19-11-1203. Energy cost savings measures authorized.

(a)(1) A state agency may enter into a guaranteed energy cost savings contract in order to reduce energy consumption or operating costs of government facilities in accordance with this subchapter.

(2) A state agency or several state agencies together may enter into an installment payment contract or lease purchase agreement with a

qualified provider for the purchase and installation of energy cost savings measures in accordance with this subchapter.

(b) All energy cost savings measures shall comply with current local, state, and federal construction and environmental codes and regulations.

(c) The provisions of the Arkansas Procurement Law, § 19-11-201 et seq., shall control if there is any conflict with that law and the provisions of this subchapter.

History. Acts 2005, No. 1761, § 1.

19-11-1204. Method of solicitation.

Any solicitation of a guaranteed energy cost savings contract by a state agency shall be consistent with the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 2005, No. 1761, § 1.

19-11-1205. Evaluation of proposals.

(a) A state agency's evaluation of each qualified provider's proposal shall include an analysis of:

(1) The estimates of all costs, including, but not limited to, modifications, remodeling, a preinstallation energy audit or analysis, design, engineering, installation, maintenance, repairs, debt service, and postinstallation project monitoring, data collection, and reporting;

(2) A determination whether there will be a reduction in energy consumption or operating costs resulting from the proposal;

(3) The qualifications of the properly state-licensed provider;

(4) The relative importance of price, return of investment, financial performance, stability, quality, technical ability, experience, or any other relevant evaluation factor;

(5) Tasks to be performed under the proposal; and

(6) Timeframes within which the work will be completed.

(b) After evaluating the proposals:

(1) The state agency may reject any proposal; or

(2) Award the guaranteed energy cost savings contract in a manner consistent with the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 2005, No. 1761, § 1.

19-11-1206. Contract requirements.

(a) A guaranteed energy cost savings contract shall include the properly state-licensed qualified provider's guarantee that:

(1) The energy and operational cost savings to be realized over the term of the guaranteed energy cost savings contract shall meet or exceed the costs of the energy cost savings measures;

(2) The payback period for heating, ventilation, and air conditioning systems shall be based on the equipment capacity and efficiency as certified by the Air-Conditioning and Refrigeration Institute; and

(3) If the annual energy or operational cost savings fail to meet or exceed the annual costs of the energy cost savings measure as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the state agency for any shortfall of guaranteed energy cost savings on an annual basis.

(b) The guaranteed energy cost savings contract may not have a term beyond twenty (20) years.

(c) Before entering into a guaranteed energy cost savings contract, the state agency shall require the qualified provider to file with the state agency a bid bond, performance bond, or similar assurance as provided under § 19-11-235.

History. Acts 2005, No. 1761, § 1.

CHAPTER 12

TOBACCO SETTLEMENT PROCEEDS ACT

SUBCHAPTER.

1. TOBACCO SETTLEMENT PROCEEDS ACT.
2. TOBACCO SETTLEMENT REVENUE BONDS ACT OF 2006.

A.C.R.C. Notes. References to “this chapter” in §§ 19-12-101 through 19-12-118 may not apply to § 19-12-119 which was enacted subsequently.

Acts 2005, No. 180, § 6, provided:

“POSITIONS. (a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Con-

tract paid from the proceeds of the Tobacco Settlement.”

Acts 2005, No. 425, § 6, provided:

“POSITIONS. (a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Acts 2005, No. 1403, § 13, provided:

"POSITIONS. (a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Acts 2005, No. 2045, § 9, provided:

"POSITIONS. (a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

Acts 2005, No. 2310, § 7, provided: "(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Acts 2007, No. 792, § 7, provided: "(a)

Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

Acts 2007, No. 1282, § 7, provided: "(a) Nothing in this act shall be construed as

a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009.”

Acts 2007, No. 1284, § 9, provided: “(a)

Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.”

Acts 2007, No. 1292, § 6, provided: “(a)

Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the

event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009.”

Effective Dates. Acts 2002 (1st Ex. Sess.), No. 2, § 12: June 12, 2002. Emergency clause provided: “It is found and determined by the General Assembly that the budgetary crisis facing this state may require large reductions in the state Medicaid program, which reductions will cut three federal matching dollars for each state dollar, resulting in a serious threat to the ability of the state Medicaid program to provide adequate care to the state’s neediest citizens. Setting aside funds for an Arkansas Rainy Day Fund by shifting the Prevention and Cessation Program Account to a current year budget will make moneys available to assist the state Medicaid program in maintaining its established levels of service in the event that the current revenue forecast is not collected. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2005, No. 1872, § 4: Apr. 8, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that clarification

is needed to properly distribute moneys under the Master Settlement Agreement; that the distributions are for the benefit of the programs supported by tobacco settlement funds; and that the clarification is required immediately in order for the distributions for the current fiscal year to be correct. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the

public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

SUBCHAPTER 1 — TOBACCO SETTLEMENT PROCEEDS ACT

SECTION.

- 19-12-101. Title.
- 19-12-102. Definitions.
- 19-12-103. Grant of authority to State Board of Finance.
- 19-12-104. Creation and administration of Tobacco Settlement Cash Holding Fund.
- 19-12-105. Creation and administration of Tobacco Settlement Debt Service Fund.
- 19-12-106. Issuance of tobacco settlement revenue bonds by Arkansas Development Finance Authority.
- 19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.
- 19-12-108. Creation and administration of the Tobacco Settlement Program Fund.
- 19-12-109. Creation of Prevention and Cessation Program Account.
- 19-12-110. Creation of the Targeted State Needs Program Account.

SECTION.

- 19-12-111. Creation of Arkansas Biosciences Institute Program Account.
- 19-12-112. Creation of Medicaid Expansion Program Account.
- 19-12-113. Establishment and administration of prevention and cessation programs.
- 19-12-114. Establishment and administration of the Targeted State Needs Program.
- 19-12-115. Establishment and administration of the Arkansas Biosciences Institute.
- 19-12-116. Establishment and administration of Medicaid Expansion Program.
- 19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.
- 19-12-118. Monitoring and evaluation of programs.
- 19-12-119. Use of funds for the Medicaid Expansion Program Account.

Publisher's Notes. Due to the enactment of subchapter 2 by Acts 2006 (1st Ex. Sess.), No. 9, the existing provisions of

this chapter have been redesignated as subchapter 1.

19-12-101. Title.

This chapter may be referred to and cited as the "Tobacco Settlement Proceeds Act".

History. Init. Meas. 2000, No. 1, § 1.

19-12-102. Definitions.

(a) The following terms, as used in this chapter, shall have the meanings set forth in this section:

(1) “Act” shall mean this Arkansas Tobacco Settlement Funds Act of 2000.

(2) “ADFA” shall mean the Arkansas Development Finance Authority.

(3) “Arkansas Biosciences Institute” shall mean the Arkansas Biosciences Institute created by § 19-12-115.

(4) “Arkansas Biosciences Institute Program Account” shall mean the account by that name created pursuant to § 19-12-111 to be funded from the Tobacco Settlement Program Fund and used by the Arkansas Biosciences Institute for the purposes set forth in this chapter.

(5) “Arkansas Healthy Century Trust Fund” shall mean that public trust for the benefit of the citizens of the State of Arkansas created and established pursuant to § 19-12-107.

(6) “Arkansas Tobacco Settlement Commission” shall mean the entity that administers the programs established pursuant to this chapter, also known as “ATSC”, which is described and established in § 19-12-117.

(7) “Arkansas Tobacco Settlement Commission Fund” shall mean the fund by that name created pursuant to § 19-12-108(f) to be used by the Arkansas Tobacco Settlement Commission for the purposes set forth in § 19-12-117.

(8) “Bonds” shall mean any and all bonds, notes, or other evidences of indebtedness issued by ADFA as Tobacco Settlement Revenue Bonds pursuant to the terms of this chapter.

(9) “Capital Improvement Projects” shall mean the acquisition, construction and equipping of land, buildings, and appurtenant facilities, including but not limited to parking and landscaping, all intended for the provision of health care services, health education, or health-related research; provided that each such Capital Improvement Project must be either set forth in this chapter or subsequently designated by the General Assembly pursuant to legislation.

(10) “Debt Service Requirements” shall mean all amounts required to be paid in connection with the repayment of Bonds issued pursuant to this chapter, including, but not limited to, the principal of and interest on the Bonds, amounts reasonably required for a debt service reserve, amounts reasonably required to provide debt service coverage, trustee’s and paying agent fees, and, to the extent reasonably necessary, capitalized interest on the Bonds.

(11) “Initial MSA Disbursement” shall mean the first disbursement from the MSA Escrow to the State, consisting of Arkansas’ share of payments from Participating Manufacturers due under the Master Settlement Agreement and designated as the 1998 First Payment, the 2000 Initial Payment, and the 2000 Annual Payment, which amounts, along with any accumulated interest, represent all money due to the State and attributable to payments prior to January 1, 2001.

(12) “Master Settlement Agreement” or “MSA” shall mean that certain Master Settlement Agreement between certain states (the “Settling States”) and certain tobacco manufacturers (the “Participating Manufacturers”), pursuant to which the Participating Manufacturers have agreed to make certain payments to each of the Settling States.

(13) “Medicaid Expansion Program Account” shall mean the account by that name created pursuant to § 19-12-112 to be funded from the Tobacco Settlement Program Fund and used by the Arkansas Department of Human Services for the purposes set forth in this chapter.

(14) “MSA Disbursements” shall mean all amounts disbursed from the MSA Escrow pursuant to the Master Settlement Agreement to the State of Arkansas.

(15) “MSA Disbursement Date” shall mean any date on which MSA Disbursements are made to the State of Arkansas pursuant to the Master Settlement Agreement at the request of the State.

(16) “MSA Escrow” shall mean those escrow accounts established to hold the State of Arkansas’s share of the Tobacco Settlement proceeds prior to disbursement to the State pursuant to the Master Settlement Agreement.

(17) “MSA Escrow Agent” shall mean that agent appointed pursuant to the Escrow Agreement entered into between the Settling States and the Participating Manufacturers pursuant to the Master Settlement Agreement.

(18) “Participating Manufacturers” shall mean those entities defined as Participating Manufacturers by the terms of the Master Settlement Agreement.

(19) “Prevention and Cessation Program Account” shall mean the account by that name created pursuant to § 19-12-109 to be funded from the Tobacco Settlement Program Fund and used for the purposes set forth in this chapter.

(20) “Program Accounts” shall mean, collectively, the Prevention and Cessation Program Account, the Targeted State Needs Program Account, the Arkansas Biosciences Institute Program Account, and the Medicaid Expansion Program Account.

(21) “State Board of Finance” shall mean the entity created pursuant to § 19-3-101, as amended.

(22) “Targeted State Needs Programs Account” shall mean the account by that name created pursuant to § 19-12-110 to be funded from the Tobacco Settlement Program Fund and used for the purposes set forth in this chapter.

(23) “Tobacco Settlement” shall mean the State of Arkansas’s share of funds to be distributed pursuant to the Master Settlement Agreement between the Settling States and the Participating Manufacturers.

(24) “Tobacco Settlement Cash Holding Fund” shall mean the Fund established as a cash fund outside of the State Treasury pursuant to § 19-12-104, into which all MSA Disbursements shall be deposited on each MSA Disbursement Date.

(25) “Tobacco Settlement Debt Service Fund” shall mean the Fund established as a cash fund outside of the State Treasury pursuant to § 19-12-105.

(26) “Tobacco Settlement Program Fund” or “Program Fund” shall mean the Tobacco Settlement Program Fund established pursuant to § 19-12-108, which shall be used to hold and distribute funds to the various Program Accounts created by this chapter.

(27) “Trust indenture” or “indenture” shall mean any trust indenture, ADFA resolution, or other similar document under which Tobacco Settlement Revenue Bonds are to be issued and secured.

History. Init. Meas. 2000, No. 1, § 2.

19-12-103. Grant of authority to State Board of Finance.

The State Board of Finance is hereby authorized and directed to perform the following duties with respect to the Tobacco Settlement:

(a) The State Board of Finance is authorized and directed on behalf of the State of Arkansas to receive all authorized disbursements from the MSA Escrow. The Initial MSA Disbursement and each subsequent MSA Disbursement shall be immediately deposited into the Tobacco Settlement Cash Holding Fund, and distributed from there as prescribed in this chapter. The Office of the Attorney General is directed to take all action necessary to inform the MSA Escrow Agent that the State Board of Finance is authorized to receive such disbursements on behalf of the State.

(b) The State Board of Finance shall manage and invest all amounts held in the Tobacco Settlement Cash Holding Fund, the Tobacco Settlement Debt Service Fund, the Arkansas Healthy Century Trust Fund, the Tobacco Settlement Program Fund, the Arkansas Tobacco Settlement Commission Fund, and the Program Accounts, and shall have full power to invest and reinvest the moneys in such funds and accounts and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made as well as the proceeds of the investments and moneys, pursuant to the following standards:

(1) with respect to amounts in the Arkansas Healthy Century Trust Fund, all investments shall be pursuant to and in compliance with the prudent investor and other applicable standards set forth in §§ 24-3-408 [repealed], 24-3-414 [repealed], 24-3-415 [repealed], and 24-3-417 — 24-3-425 [repealed], and § 19-3-518;

(2) with respect to amounts in the Tobacco Settlement Debt Service Fund, all investments shall be pursuant to and in compliance with the prudent investor and other applicable standards set forth in §§ 24-3-408 [repealed], 24-3-414 [repealed], 24-3-415 [repealed], and 24-3-417 — 24-3-425 [repealed], and § 19-3-518; provided further that the types and manner of such investments may be further limited as set forth in § 19-12-105; and

(3) with respect to amounts held in the Tobacco Settlement Cash Holding Fund, the Tobacco Settlement Program Fund, each of the

Program Accounts, and the Arkansas Tobacco Settlement Commission Fund, all investments shall of the type described in § 19-3-510 and shall be made with depositories designated pursuant to § 19-3-507; or such investment shall be in certificates of deposit, in securities as outlined in § 23-47-401 without limitation or as approved in the State Board of Finance investment policy. The State Board of Finance shall insure that such investments shall mature or be redeemable at the times needed for disbursements from such funds and accounts pursuant to this chapter.

(c) The State Board of Finance is authorized to employ such professionals as it deems necessary and desirable to assist it in properly managing and investing the Arkansas Healthy Century Trust Fund, pursuant to the standards set forth in § 24-3-425 [Repealed].

(d) The State Board of Finance is authorized to use investment earnings from the Arkansas Healthy Century Trust Fund to compensate the professionals retained under subsection (d) [sic], and to pay the reasonable costs and expenses of the State Board of Finance in administering the funds and accounts created under this chapter and performing all other duties ascribed to it hereunder.

(e) On the last day of each month, the State Board of Finance shall provide the Department of Finance and Administration, Office of Accounting with the current balances in the Tobacco Settlement Cash Holding Fund, the Arkansas Healthy Century Trust Fund, the Tobacco Settlement Program Fund, the Tobacco Settlement Debt Service Fund, the Arkansas Tobacco Settlement Commission Fund, and each Program Account.

(f) The State Board of Finance is authorized and directed to perform all other tasks that may be assigned to the State Board of Finance pursuant to this chapter.

History. Init. Meas. 2000, No. 1, § 3.

19-12-104. Creation and administration of Tobacco Settlement Cash Holding Fund.

(a) There is hereby created and established a fund, held separate and apart from the State Treasury, to be known as the "Tobacco Settlement Cash Holding Fund", which fund shall be administered by the State Board of Finance.

(b) All moneys received as part of the Tobacco Settlement are hereby designated cash funds pursuant to § 19-6-103, restricted in their use and to be used solely as provided in this chapter. All MSA Disbursements shall be initially deposited into the credit of the Tobacco Settlement Cash Holding Fund, when and as received. Any and all MSA Disbursements received prior to the effective date of this Act shall be immediately transferred to the Tobacco Settlement Cash Holding Fund upon this chapter becoming effective. The Tobacco Settlement Cash Holding Fund is intended as a cash fund, not subject to appropriation, and, to the extent practical, amounts in the Tobacco Settlement Cash

Holding Fund shall be immediately distributed to the other Funds and Accounts described in this chapter.

(c) The Initial MSA Disbursement shall be distributed from the Tobacco Settlement Cash Holding Fund to the Arkansas Healthy Century Trust Fund as an initial endowment pursuant to § 19-12-107.

(d) After the Initial MSA Disbursement has been transferred as set forth in subsection (c) of this section, the State Board of Finance, beginning with MSA Disbursements for years 2001 and thereafter, shall receive all amounts due to the State from the MSA Escrow. In calendar year 2001, there shall first be deposited into the Arkansas Healthy Century Trust Fund from the MSA Disbursements attributable to calendar year 2001, the amount necessary to bring the principal amount of the Arkansas Healthy Century Trust Fund to one-hundred million dollars (\$100,000,000). The remainder of any MSA Disbursements attributable to calendar year 2001 shall be deposited into the Tobacco Settlement Program Fund and distributed pursuant to § 19-12-108. Beginning in 2002, and for each annual MSA Disbursement thereafter, all MSA Disbursements shall be immediately deposited into the Tobacco Settlement Cash Holding Fund and then distributed, as soon as practical after receipt, as follows:

(1) The first five million dollars (\$5,000,000) received as an MSA Disbursement in each calendar year beginning in 2002 shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Debt Service Fund; and

(2) After the transfer described in § 19-12-104(d)(1), the amounts remaining in the Tobacco Settlement Cash Holding Fund shall be transferred to the Tobacco Settlement Program Fund.

(e) While it is intended that the State Board of Finance will transfer funds from the Tobacco Settlement Cash Holding Fund immediately upon receipt, to the extent that any amounts must be held pending the transfers described in § 19-12-104(c) and (d), the State Board of Finance is authorized to invest such amounts in suitable investments maturing not later than when the moneys are expected to be transferred, provided that such investments are made in compliance with § 19-12-103(c).

History. Init. Meas. 2000, No. 1, § 4.

19-12-105. Creation and administration of Tobacco Settlement Debt Service Fund.

(a) There is hereby created and established a fund, designated as a cash fund and held separate and apart from the State Treasury, to be known as the "Tobacco Settlement Debt Service Fund", which Fund shall be administered by the State Board of Finance. All moneys deposited into the Tobacco Settlement Debt Service Fund are hereby designated cash funds pursuant to § 19-6-103, restricted in their use and to be used solely as provided in this chapter.

(b) There shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Debt Service Fund, the amount set forth for such transfer in § 19-12-104(d). All amounts received into the Tobacco Settlement Debt Service Fund shall be held until needed to make payments on Debt Service Requirements. The State Board of Finance is authorized to invest any amounts held in the Tobacco Settlement Debt Service Fund in suitable investments maturing not later than when the moneys are needed to pay Debt Service Requirements, provided that such investments comply with § 19-12-103(c), and further provided that the investment of such moneys may be further limited by the provisions of any trust indenture pursuant to which Bonds are issued or any related non-arbitrage certificate or tax regulatory agreement.

(c) Amounts held in the Tobacco Settlement Debt Service Fund shall be transferred to funds and accounts established and held by the trustee for the Bonds at such times and in such manner as may be specified in the trust indenture securing the Bonds. If so required by any trust indenture pursuant to which Bonds have been issued, amounts deposited into the Tobacco Settlement Debt Service Fund may be immediately deposited into funds or accounts established by such trust indenture and held by the trustee for the Bonds. The State Board of Finance is authorized to execute any consent, pledge, or other document, reasonably required pursuant to a trust indenture to affirm the pledge of amounts held in the Tobacco Settlement Debt Service Fund to secure Tobacco Settlement Revenue Bonds.

(d) On December 15 of each calendar year, any amounts held in the Tobacco Settlement Debt Service Fund, to the extent such amounts are not needed to pay Debt Service Requirements prior to the following April 15, shall be transferred to the Arkansas Healthy Century Trust Fund. At such time as there are no longer any Bonds outstanding, and all Debt Service Requirements and other contractual obligations have been paid in full, amounts remaining in the Tobacco Settlement Debt Service Fund shall be transferred to the Arkansas Healthy Century Trust Fund.

History. Init. Meas. 2000, No. 1, § 5.

19-12-106. Issuance of tobacco settlement revenue bonds by Arkansas Development Finance Authority.

(a) The Arkansas Development Finance Authority (“ADFA”) is hereby directed and authorized to issue Tobacco Settlement Revenue Bonds, the proceeds of which are to be used for financing the Capital Improvement Projects described in § 19-12-106(b). The Bonds may be issued in series from time to time, and shall be special obligations only of ADFA, secured solely by the revenue sources set forth in this section.

(b) The Capital Improvement Projects to be financed shall be:

(1) University of Arkansas for Medical Sciences, Biosciences Research Building; provided, however, that no more than two million, two

hundred thousand dollars (\$2,200,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than twenty-five million dollars (\$25,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project;

(2) Arkansas State University Biosciences Research Building; provided, however, that no more than one million, eight hundred thousand dollars (\$1,800,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than twenty million dollars (\$20,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project;

(3) College of Public Health of the University of Arkansas for Medical Sciences; provided, however, that no more than one million dollars (\$1,000,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than fifteen million dollars (\$15,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project; and

(4) Only such other capital improvement projects related to the provision of health care services, health education, or health-related research as designated by legislation enacted by the General Assembly; provided that the deposits to the Tobacco Settlement Debt Service Fund are adequate to pay Debt Service Requirements for such additional projects.

(c) Prior to issuance of any series of Bonds authorized herein, ADFA shall adopt a resolution authorizing the issuance of such series of Bonds. Each such resolution shall contain such terms, covenants, conditions, as deemed desirable and consistent with this chapter together with provisions of the Arkansas Development Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301 et seq., including without limitation, those pertaining to the establishment and maintenance of funds and accounts, deposit and investment of Bond proceeds and the rights and obligations of ADFA and the registered owners of the Bonds. In authorizing, issuing, selling the Bonds and in the investment of all funds held under the resolution or indenture securing such Bonds, ADFA shall have the powers and be governed by the provisions of §§ 15-5-309 and 15-5-310.

(d) The Bonds shall be special obligations of ADFA, secured and payable from deposits made into the Tobacco Settlement Debt Service Fund created pursuant to this chapter. In pledging revenues to secure the Bonds, the provisions of § 15-5-313 shall apply.

(e) If so determined by ADFA, the Bonds may additionally be secured by a lien on or security interest in facilities financed by the Bonds, by a lien or pledge of loans made by ADFA to the user of such facilities, and any collateral security received by ADFA, including, without limitation, ADFA's interest in and any revenue derived from any loan agreements.

It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with such bond issue or the holders of the Bonds take possession of the loans, mortgages and collateral security.

(f) It shall be plainly stated on the face of each Bond that it has been issued under this chapter, and the Arkansas Development Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301 et seq., that the Bonds shall be obligations only of ADFA secured as specified herein and that, in no event, shall the bonds constitute an indebtedness of the State of Arkansas or an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged or an indebtedness secured by lien, or security interest in any property of the State.

(g) The Bonds may be issued in one or more series, as determined by ADFA. Additional Bonds may be issued in one or more series to fund additional Capital Improvement Projects subsequently designated pursuant to § 19-12-106(b)(4), so long as ADFA determines that revenues transferred to the Tobacco Settlement Debt Service Fund, in combination with other revenues available to secure the Bonds pursuant to § 19-12-106(e); will be sufficient to meet all Debt Service Requirements on such additional Bonds and any other Bonds then outstanding.

(h) Any funds remaining and available to ADFA or the trustees under any indenture or resolution authorized herein after the retirement of all Bonds outstanding under such indenture or resolution, and the satisfaction of all contractual obligations related thereto and all current expenses of ADFA related thereto, shall be transferred to the Arkansas Healthy Century Trust Fund.

(i) ADFA may issue Bonds for the purpose of refunding Bonds previously issued pursuant to this chapter, and in doing so shall be governed by the provisions of § 15-5-314.

(j) All Bonds issued under this chapter, and interest thereon, shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes. The Bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of municipal, county, bank, fiduciary, insurance company and trust funds.

(k) The State of Arkansas does hereby pledge to and agree with the holders of any Tobacco Settlement Revenue Bonds issued pursuant to this chapter that the State shall not (1) limit or alter the distribution of the Tobacco Settlement moneys to the Tobacco Settlement Debt Service Fund if such action would materially impair the rights of the holders of the Bonds, (2) amend or modify the Master Settlement Agreement in any way if such action would materially impair the rights of the holders of the Bonds, (3) limit or alter the rights vested in ADFA to fulfill the terms of any agreements made with the holders of the Bonds, or (4) in any way impair the rights and remedies of the holders of the Bonds, unless and until all Bonds issued pursuant to this chapter, together with interest on the Bonds, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of the

Bonds, have been paid, fully met, and discharged. ADFA is authorized to include this pledge and agreement in any agreement with the holders of the Bonds.

History. Init. Meas. 2000, No. 1, § 6.

19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.

(a) There is hereby created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, a trust fund, to be created as a public trust for the benefit of the State of Arkansas, to be known as the “Arkansas Healthy Century Trust Fund”, which Trust Fund shall be administered by the State Board of Finance. Such fund shall be restricted in its use and is to be used solely as provided in this chapter.

(b) The Arkansas Healthy Century Trust Fund shall be a perpetual trust, the beneficiary of which shall be the State of Arkansas and the programs of the State of Arkansas enumerated in this section. The State Board of Finance, as it may from time to time be comprised, is hereby appointed as trustee of the Arkansas Healthy Century Trust Fund. Such trust shall be revocable, and subject to amendment.

(c) The Arkansas Healthy Century Trust Fund shall be administered in accordance with the provisions of this section, which shall, for all purposes, be deemed to be the governing document of the public trust.

(d) The Arkansas Healthy Century Trust Fund shall be funded in an initial principal amount of one hundred million dollars (\$100,000,000) as provided in § 19-12-104. All earnings on investments of amounts in the Arkansas Healthy Century Trust Fund, to the extent not used for the purposes enumerated in subsection (e) of this section, shall be redeposited into the Arkansas Healthy Century Trust Fund, it being the intent of this chapter that the Arkansas Healthy Century Trust Fund shall grow in principal amount until needed for programs and purposes to benefit the State of Arkansas.

(e) The Arkansas Healthy Century Trust Fund shall be held in trust and used for the following purposes, and no other purposes:

(1) investment earnings on the Arkansas Healthy Century Trust Fund may be used for:

(A) the payment of expenses related to the responsibilities of the State Board of Finance as set forth in § 19-12-103; and

(B) such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly.

(2) the principal amounts in the Arkansas Healthy Century Trust Fund may only be used for such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly, it being the intent of this chapter that the principal

amount of the Trust Fund should not be appropriated without amendment of this public trust.

(f) It is intended that the beneficiaries of the Arkansas Healthy Century Trust Fund be the State of Arkansas and its programs, and other projects related to health care services, health education, and health-related research, as such are now in existence or as such may be created in the future.

(g) The State Board of Finance, as trustee of the Arkansas Healthy Century Trust Fund, is authorized to invest all amounts held in the Arkansas Healthy Century Trust Fund in investments pursuant to and in compliance with § 19-12-103(c).

History. Init. Meas. 2000, No. 1, § 7.

19-12-108. Creation and administration of the Tobacco Settlement Program Fund.

(a) There is hereby created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Tobacco Settlement Program Fund", which fund shall be administered by the State Board of Finance. All moneys deposited into the Tobacco Settlement Program Fund are hereby restricted in their use and to be used solely as provided in this chapter. All expenditures and obligations that are payable from the Tobacco Settlement Program Fund and from each of the program accounts shall be subject to the same fiscal control, accounting, budgetary, and purchasing laws as are expenditures and obligations payable from other State Treasury funds, except as specified otherwise in this chapter. The Chief Fiscal Officer of the State may require additional controls, procedures, and reporting requirements that he or she determines are necessary to carry out the intent of this chapter.

(b) There shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Program Fund the amounts set forth for such transfer as provided in § 19-12-104.

(c) Amounts deposited into the Tobacco Settlement Program Fund shall, prior to the distribution to the program accounts set forth in § 19-12-108(d)(1), be held and invested in investments pursuant to and in compliance with § 19-12-103(c); provided, that all such investments must mature or be redeemable without penalty on or prior to the next-succeeding June 30.

(d)(1) On each July 1, the amounts deposited into the Tobacco Settlement Program Fund, excluding investment earnings, shall be transferred to the various program accounts as follows:

(A) Fifteen and eight-tenths percent (15.8%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Targeted State Needs Program Account;

(B) Twenty-two and eight-tenths percent (22.8%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Arkansas Biosciences Institute Program Account; and

(C) Twenty-nine and eight-tenths percent (29.8%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Medicaid Expansion Program Account.

(2)(A) The Prevention and Cessation Program Account may receive loans from the Budget Stabilization Trust Fund, from time to time, in amounts determined by the Chief Fiscal Officer of the State that shall not exceed thirty-one and six-tenths percent (31.6%) of the amounts estimated to be received in the Tobacco Settlement Program Fund during the current fiscal year. This estimate shall not include moneys returned to the Tobacco Settlement Program Fund pursuant to subdivision (e)(1) of this section.

(B) The loans shall be repaid from thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund during the fiscal year in which the loans are made. The loans shall be repaid prior to the end of the fiscal year. After the loans have been repaid, the Prevention and Cessation Program Account shall be transferred the difference between thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund during the fiscal year in which the loans are made and the amount of the loans.

(e)(1) All moneys distributed to the program accounts set forth in subdivision (d)(1) of this section and remaining at the end of each fiscal biennium shall be transferred to the Tobacco Settlement Program Fund by the board. The amounts will be held in the Tobacco Settlement Program Fund and then redeposited on July 1 as follows:

(A) Twenty-three and one-tenth percent (23.1%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Targeted State Needs Program Account;

(B) Thirty-three and three-tenths percent (33.3%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Arkansas Biosciences Institute Program Account; and

(C) Forty-three and six-tenths percent (43.6%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Medicaid Expansion Program Account.

(2) However, if the director of any agency receiving funds from the Tobacco Settlement Program Fund determines that there is a need to retain a portion of the amounts transferred under this section, the director may submit a request and written justification to the Chief Fiscal Officer of the State. Upon determination by the Chief Fiscal Officer of the State that sufficient justification exists, and after certification by the Arkansas Tobacco Settlement Commission that the program has met the criteria established in § 19-12-118, such amounts requested shall remain in the account at the end of a biennium, there to be used for the purposes established by this chapter; provided, that the Chief Fiscal Officer of the State shall seek the review of the Legislative Council prior to approval of any such request.

(f) The board shall invest all moneys held in the Tobacco Settlement Program Fund and in each of the program accounts. All investment

earnings on such funds and accounts shall be transferred on each July 1 to a fund hereby established and as a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State and designated as the Arkansas Tobacco Settlement Commission Fund. Such fund is to be a trust fund and administered by the board. All moneys deposited into the Arkansas Tobacco Settlement Commission Fund are hereby restricted in their use and to be used solely as provided in this chapter. Amounts held in the Arkansas Tobacco Settlement Commission Fund shall be used to pay the costs and expenses of the commission, including the monitoring and evaluation program established pursuant to § 19-12-118, and to provide grants as authorized in § 19-12-117.

History. Init. Meas. 2000, No. 1, § 8; Acts 2002 (1st Ex. Sess.), No. 2, §§ 2-4; 2005, No. 1872, §§ 1, 2.

A.C.R.C. Notes. As originally enacted by Acts 2002 (1st Ex. Sess.), No. 2, § 3, subdivision (d)(2) began "Beginning July 1, 2002."

Amendments. The 2005 amendment added the last sentence in (d)(2)(A); in

(e)(1), in the last sentence, deleted "and combined with amounts deposited to the fund from the annual NSA Disbursements" following "Tobacco Settlement Program Fund" and substituted "as follows" for "pursuant to the formula set forth in § 19-12-108(d)(1)"; and added (e)(1)(A) through (e)(1)(C).

19-12-109. Creation of Prevention and Cessation Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the "Prevention and Cessation Program Account". The account shall be used by the Department of Health for such purposes and in such amounts as may be appropriated in law.

(b) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-113 or such other purposes as may be appropriated in law.

(c) Moneys remaining in the account at the end of each fiscal year shall be carried forward and used for the purposes provided by law.

History. Init. Meas. 2000, No. 1, § 9; Acts 2002 (1st Ex. Sess.), No. 2, § 5; 2005, No. 1872, § 3.

Amendments. The 2005 amendment,

in (c), substituted "each fiscal year" for "the first fiscal year of a biennium" and deleted the last sentence.

19-12-110. Creation of the Targeted State Needs Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the "Targeted State Needs

Program Account". Such account shall be used for such purposes and in such amounts as may be appropriated by law.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(A).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-114, or such other purposes as may be appropriated in law. Of the amounts deposited into the account, the following proportions shall be used to fund the programs established in § 19-12-114:

(1) College of Public Health of the University of Arkansas for Medical Sciences — thirty-three per cent (33%);

(2) Area Health Education Center located in Helena — twenty-two per cent (22%);

(3) Donald W. Reynolds Center on Aging — twenty-two per cent (22%); and

(4) Minority Health Initiative, administered by the Minority Health Commission — twenty-three per cent (23%).

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the Tobacco Settlement Program Fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 10;
Acts 2002 (1st Ex. Sess.), No. 2, § 6.

19-12-111. Creation of Arkansas Biosciences Institute Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the Arkansas Biosciences Institute Program Account. Such account shall be used by the Arkansas Biosciences Institute and its members for such purposes and in such amounts as may be appropriated in law.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(B).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-115 or such other purposes as may be appropriated in law.

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 11;
Acts 2002 (1st Ex. Sess.), No. 2, § 7.

A.C.R.C. Notes. Acts 2007, No. 1292,
§ 8, provided: "It is the intent of the

General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for

which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Adminis-

tration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.”

19-12-112. Creation of Medicaid Expansion Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the “Medicaid Expansion Program Account”. Such account shall be used by the Department of Human Services for such purposes and in such amounts as may be appropriated in law. These funds shall not be used to replace or supplant other funds available in the Department of Human Services Grants Fund Account. The funds appropriated for this program shall not be expended, except in conformity with federal and state laws, and then only after the department obtains the necessary approvals from the federal Centers for Medicare and Medicaid Services.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(C).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-116, or such other purposes as may be appropriated in law.

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 12;
Acts 2002 (1st Ex. Sess.), No. 2, § 8.

19-12-113. Establishment and administration of prevention and cessation programs.

(a) It is the intent of this chapter that the Department of Health should establish the Tobacco Prevention and Cessation Program described in this section, and to administer such programs in accordance with law. The program described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(b) The Department of Health shall be responsible for developing, integrating, and monitoring tobacco prevention and cessation programs funded under this chapter and shall provide administrative oversight and management, including, but not limited to implementing performance based measures. The Department of Health shall have authority

to award grants and allocate money appropriated to implement the tobacco prevention and cessation program mandated under this chapter. The Department of Health may contract with those entities necessary to fully implement the tobacco prevention and cessation initiatives mandated under this chapter. Within thirty (30) days of receipt of moneys into the Prevention and Cessation Program Account, fifteen percent (15%) of those moneys shall be deposited into a special account within the prevention and cessation account at the Department of Health to be expended for tobacco prevention and cessation in minority communities as directed by the Director of the Department of Health in consultation with the Chancellor of the University of Arkansas at Pine Bluff, the President of the Arkansas Medical, Dental and Pharmaceutical Association, and the League of United Latin American Citizens.

(c) The Tobacco Prevention and Cessation Program shall be comprised of components approved by the State Board of Health. The program components selected by the board shall include:

(1) community prevention programs that reduce youth tobacco use;

(2) local school programs for education and prevention in grades kindergarten through twelve (K-12) that should include school nurses, where appropriate;

(3) enforcement of youth tobacco control laws;

(4) state-wide programs with youth involvement to increase local coalition activities;

(5) tobacco cessation programs;

(6) tobacco-related disease prevention programs;

(7) a comprehensive public awareness and health promotion campaign;

(8) grants and contracts funded pursuant to this chapter for monitoring and evaluation, as well as data gathering; and

(9) other programs as deemed necessary by the board.

(d) There is hereby created an Advisory Committee to the State Board of Health, to be known as the "Tobacco Prevention and Cessation Advisory Committee". It shall be the duty and responsibility of the Committee to advise and assist the board in carrying out the provisions of this chapter. The Advisory Committee's authority shall be limited to an advisory function to the board. The Advisory Committee may, in consultation with the Department of Health, make recommendations to the board on the strategic plans for the prevention, cessation, and awareness elements of the comprehensive Tobacco Prevention and Cessation Program. The Advisory Committee may also make recommendations to the board on the strategic vision and guiding principles of the Tobacco Prevention and Cessation Program.

(e) The Advisory Committee shall be governed as follows:

(1) The Advisory Committee shall consist of eighteen (18) members; one (1) member to be appointed by the President Pro Tempore of the Senate and one (1) member to be appointed by the Speaker of the House of Representatives, and sixteen (16) members to be appointed by the

Governor. The Committee members appointed by the Governor shall be selected from a list of at least three (3) names submitted by each of the following designated groups to the Governor, and shall consist of the following: one (1) member appointed to represent the Arkansas Medical Society; one (1) member shall represent the Arkansas Hospital Association; one (1) member shall represent the American Cancer Society; one (1) member shall represent the American Heart Association; one (1) member shall represent the American Lung Association; one (1) member shall represent the Coalition for a Tobacco-Free Arkansas; one (1) member shall represent Arkansans for Drug Free Youth; one (1) member shall represent the Department of Education; one (1) member shall represent the Arkansas Minority Health Commission; one (1) member shall represent the Arkansas Center for Health Improvement; one (1) member shall represent the Arkansas Association of Area Agencies on Aging; one (1) member shall represent the Arkansas Nurses Association; one (1) member shall represent the Arkansas Cooperative Extension Service, one (1) member shall represent the University of Arkansas at Pine Bluff; one member shall represent the League of United Latin American Citizens; and one (1) member shall represent the Arkansas Medical, Dental and Pharmaceutical Association. The Executive Committee of Arkansas Students Working Against Tobacco shall serve as youth advisors to this Advisory Committee. All members of this committee shall be residents of the State of Arkansas.

(2) The Advisory Committee will initially have four (4) members who will serve one (1) year terms; four (4) members who will serve two (2) year terms; five (5) members who will serve three (3) year terms; and five (5) members who will serve four (4) years. Members of the Advisory Committee shall draw lots to determine the length of the initial term. Subsequently appointed members shall be appointed for four (4) year terms and no member can serve more than two (2) consecutive full four (4) year terms. The terms shall commence on October 1st of each year.

(3) Members of the Advisory Committee shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program to the Department of Health.

(4) Members appointed to the Advisory Committee and the organizations they represent shall make full disclosure of the member's participation on the Committee when applying for any grant or contract funded by this chapter.

(5) All members appointed to the Advisory Committee shall make full and public disclosure of any past or present association to the tobacco industry.

(6) The Advisory Committee shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the Advisory Committee. The Advisory Committee shall adopt bylaws.

(7) The Advisory Committee shall meet at least quarterly, however, special meetings may be called at any time at the pleasure of the State

Board of Health or pursuant to the bylaws adopted by the Advisory Committee.

(f) The board is authorized to review the recommendations of the Advisory Committee. The board shall adopt and promulgate rules, standards and guidelines as necessary to implement the program in consultation with the Department of Health.

(g) The Department of Health in implementing this Program shall establish such performance based accountability procedures and requirements as are consistent with law.

(h) Each of the programs adopted pursuant to this chapter shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 13.

19-12-114. Establishment and administration of the Targeted State Needs Program.

(a) The University of Arkansas for Medical Sciences is hereby instructed to establish the Targeted State Needs Programs described in this section, and to administer such programs in accordance with law.

(b) The targeted state needs programs to be established are as follows:

(1) College of Public Health of the University of Arkansas for Medical Sciences;

(2) Area Health Education Center (located in Helena);

(3) Donald W. Reynolds Center on Aging; and

(4) Minority Health Initiative administered by the Minority Health Commission.

(c)(1) College of Public Health of the University of Arkansas for Medical Sciences. The College of Public Health of the University of Arkansas for Medical Sciences is hereby established as a part of the University of Arkansas for Medical Sciences for the purpose of conducting activities to improve the health and healthcare of the citizens of Arkansas. These activities should include, but not be limited to the following functions: faculty and course offerings in the core areas of public health including health policy and management, epidemiology, biostatistics, health economics, maternal and child health, environmental health, and health and services research; with courses offered both locally and statewide via a variety of distance learning mechanisms.

(2) It is intended that the College of Public Health of the University of Arkansas for Medical Sciences should serve as a resource for the General Assembly, the Governor, state agencies, and communities. Services provided by the College of Public Health of the University of Arkansas for Medical Sciences should include, but not be limited to the following: consultation and analysis, developing and disseminating programs, obtaining federal and philanthropic grants, conducting research, and other scholarly activities in support of improving the health and healthcare of the citizens of Arkansas.

(d) Area Health Education Center. The first Area Health Education Centers were founded in 1973 as the primary educational outreach effort of the University of Arkansas for Medical Sciences. It is the intent of this chapter that the University of Arkansas for Medical Sciences establish a new Area Health Education Center to serve the following counties: Crittenden, Phillips, Lee, St. Francis, Chicot, Monroe, and Desha. The new Area health Education Center shall be operated in the same fashion as other facilities in the University of Arkansas for Medical Sciences Area Health Education Center program including training students in the fields of medicine, nursing, pharmacy and various allied health professions, and offering medical residents specializing in family practice. The training shall emphasize primary care, covering general health education and basic medical care for the whole family. The program shall be headquartered in Helena with offices in Lake Village and West Memphis.

(e) Donald W. Reynolds Center on Aging. It is the intent of this chapter that the University of Arkansas for Medical Sciences establish, in connection with the Donald W. Reynolds Center on Aging and its existing Arkansas Health Education Centers program, healthcare programs around the state offering interdisciplinary educational programs to better equip local healthcare professionals in preventive care, early diagnosis and effective treatment for the elderly population throughout the state. The satellite centers will provide access to dependable healthcare, education, resource and support programs for the most rapidly growing segment of the State's population. Each center's program is to be defined by an assessment of local needs and priorities in consultation with local healthcare professionals.

(f) Minority Health Initiative. It is the intent of this chapter that the Arkansas Minority Health Commission establish and administer the Arkansas Minority Health Initiative for screening, monitoring, and treating hypertension, strokes, and other disorders disproportionately critical to minority groups in Arkansas. The program should be designed:

- (1) to increase awareness of hypertension, strokes, and other disorders disproportionately critical to minorities by utilizing different approaches that include but are not limited to the following: advertisements, distribution of educational materials and providing medications for high risk minority populations;

- (2) to provide screening or access to screening for hypertension, strokes, and other disorders disproportionately critical to minorities but will also provide this service to any citizen within the state regardless of racial/ethnic group;

- (3) to develop intervention strategies to decrease hypertension, strokes and other disorders noted above, as well as associated complications, including: educational programs, modification of risk factors by smoking cessation programs, weight loss, promoting healthy lifestyles, and treatment of hypertension with cost-effective, well-tolerated medications, as well as case management for patients in these programs; and

(4) to develop and maintain a database that will include: biographical data, screening data, costs, and outcomes.

(g) The Arkansas Minority Health Commission will receive quarterly updates on the progress of these programs and make recommendations or changes as necessary.

(h) The programs described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(i) Each of the programs adopted pursuant to this section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 14.

A.C.R.C. Notes. Acts 2003, No. 856, § 1 provided: "The Arkansas School of Public Health, created by Arkansas Code § 19-12-114 as a part of the University of

Arkansas for Medical Sciences, shall hereafter be known as the College of Public Health of the University of Arkansas for Medical Sciences."

19-12-115. Establishment and administration of the Arkansas Biosciences Institute.

(a) It is the intent of this chapter to hereby establish the Arkansas Biosciences Institute for the educational and research purposes set forth hereinafter to encourage and foster the conduct of research through the University of Arkansas, Division of Agriculture, the University of Arkansas for Medical Sciences, University of Arkansas at Fayetteville, Arkansas Children's Hospital and Arkansas State University. The Arkansas Biosciences Institute is part of a broad program to address health issues with specific emphasis on smoking and the use of tobacco products. The Arkansas Biosciences Institute is intended to develop more fully the interdisciplinary opportunities for research primarily in the areas set forth hereinafter.

(b) Purposes. The Arkansas Biosciences Institute is established for the following purposes:

(1) to conduct agricultural research with medical implications;

(2) to conduct bioengineering research focused on the expansion of genetic knowledge and new potential applications in the agricultural-medical fields;

(3) to conduct tobacco-related research that focuses on the identification and applications of behavioral, diagnostic and therapeutic research addressing the high level of tobacco-related illnesses in the State of Arkansas;

(4) to conduct nutritional and other research focusing on prevention or treatment of cancer, congenital or hereditary conditions or other related conditions; and

(5) to conduct other research identified by the primary educational and research institutions involved in the Arkansas Biosciences Insti-

tute or as otherwise identified by the Arkansas Biosciences Institute Board of the Arkansas Biosciences Institute and which is reasonably related, or complementary to, research identified in subdivisions (b)(1)-(4) of this section.

(c)(1) Arkansas Biosciences Institute Board. There is hereby established the Arkansas Biosciences Institute Board which shall consist of the following: the President of the University of Arkansas; the President of Arkansas State University; the Chancellor of the University of Arkansas for Medical Sciences; the Chancellor of the University of Arkansas at Fayetteville; the Vice President for Agriculture of the University of Arkansas; the Director of the Arkansas Science and Technology Authority; the Director of the National Center for Toxicological Research; the President of Arkansas Children's Hospital; and two (2) individuals possessing recognized scientific, academic or business qualifications appointed by the Governor. The two (2) members of the Arkansas Biosciences Institute Board who are appointed by the Governor will serve four (4) year terms and are limited to serving two consecutive four (4) year terms. The terms shall commence on October 1 of each year. These members appointed by the Governor are not entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program. The Arkansas Biosciences Institute Board shall establish and appoint the members of an Industry Advisory Committee and a Science Advisory Committee composed of knowledgeable persons in the fields of industry and science. These Committees shall serve as resources for the Arkansas Biosciences Institute Board in their respective areas and will provide an avenue of communication to the Arkansas Biosciences Institute Board on areas of potential research.

(2) The Arkansas Biosciences Institute Board shall establish rules for governance for Board affairs and shall:

(A) provide overall coordination of the program;

(B) develop procedures for recruitment and supervision of member institution research review panels, the membership of which shall vary depending on the subject matter of proposals and review requirements, and may, in order to avoid conflicts of interest and to ensure access to qualified reviews, recommend reviewers not only from Arkansas but also from outside the state;

(C) provide for systematic dissemination of research results to the public and the health care community, including work to produce public service advertising on screening and research results, and provide for mechanisms to disseminate the most current research findings in the areas of cause and prevention, cure diagnosis and treatment of tobacco related illnesses, in order that these findings may be applied to the planning, implementation and evaluation of any other research programs of this state;

(D) develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other

applications wherever appropriate and consistent with state and federal law; and

(E) transmit on or before the end of each calendar year on an annual basis, a report to the General Assembly and the Governor on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, all of the following information:

(i) the number and dollar amounts of internal and external research grants, including the amount allocated to negotiated indirect costs;

(ii) the subject of research grants;

(iii) the relationship between federal and state funding for research;

(iv) the relationship between each project and the overall strategy of the research program;

(v) a summary of research findings, including discussion of promising new areas; and

(vi) the corporations, institutions, and campuses receiving grant awards.

(d) Director. The director of the Arkansas Biosciences Institute shall be appointed by the President of the University of Arkansas, in consultation with the President of Arkansas State University, and the President of Arkansas Children's Hospital, and based upon the advice and recommendation of the Arkansas Biosciences Institute Board. The Director shall be an employee of the University of Arkansas and shall serve at the pleasure of the President of the University of Arkansas. The Director shall be responsible for recommending policies and procedures to the Arkansas Biosciences Institute Board for its internal operation and shall establish and ensure methods of communication among the units and divisions of the University of Arkansas, Arkansas Children's Hospital and Arkansas State University and their faculty and employees engaged in research under the auspices of the Arkansas Biosciences Institute. The Director shall undertake such administrative duties as may be necessary to facilitate conduct of research under the auspices of the Arkansas Biosciences Institute. The Director shall perform such other duties as are established by the President of the University of Arkansas in consultation with the President of Arkansas State University, the President of Arkansas Children's Hospital and with the input of the Arkansas Biosciences Institute Board.

(e) Conduct of Research. Research performed under the auspices of the Arkansas Biosciences Institute shall be conducted in accordance with the policies of the University of Arkansas, Arkansas Children's Hospital, and Arkansas State University, as applicable. The Arkansas Biosciences Institute Board and the Director shall facilitate the establishment of centers to focus on research in agri-medicine, environmental biotechnology, medical genetics, bio-engineering and industry development. Such centers shall be established in accordance with procedures adopted by the Arkansas Biosciences Institute Board, and

shall provide for interdisciplinary collaborative efforts with a specific research and educational objectives.

(f) In determining research projects and areas to be supported from such appropriated funds, each of the respective institutions shall assure that adequate opportunities are given to faculty and other researchers to submit proposals for projects to be supported in whole or in part from such funds. At least annually the Arkansas Biosciences Institute Board shall review research being conducted under the auspices of the Arkansas Biosciences Institute and may make recommendations to the President of the University of Arkansas and the President of Arkansas State University and President of Arkansas Children's Hospital of ways in which such research funds may be more efficiently employed or of collaborative efforts which would maximize the utilization of available funds.

(g) The programs described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(h) Each of the programs adopted pursuant to this Section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 15.

19-12-116. Establishment and administration of Medicaid Expansion Program.

(a) It is the intent of this chapter that the Department of Human Services should establish the Medicaid expansion program described in this section, and to administer such program in accordance with law.

(b) The Medicaid expansion program shall be a separate and distinct component of the state Medicaid program currently administered by the Department of Human Services and shall be established as follows:

- (1) expanding Medicaid coverage and benefits to pregnant women;
- (2) expanding inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64);
- (3) expanding non-institutional coverage and benefits to adults aged 65 and over; and
- (4) creating and providing a limited benefit package to adults aged nineteen (19) to sixty-four (64). All such expenditures shall be made in conformity with the state Medicaid program as amended and approved by the Centers for Medicare and Medicaid Services.

(c) The programs defined in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe.

Evaluation of each program shall include performance-based measures for accountability which will measure specific health related results.

(d) Each of the programs adopted pursuant to this Section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 16.

A.C.R.C. Notes. Acts 2005, No. 2045, § 7, provided: "MEDICAID EXPANSION PROGRAM — PAYING ACCOUNTS. The Medicaid Expansion Program as established by Initiated Act 1 of 2000 shall be a separate and distinct component embracing (1) expanded Medicaid coverage and benefits to pregnant women; (2) expanded inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64); (3) expanded non-institutional coverage and benefits to adults aged 65 and over; and (4) creation and provision of a limited benefit package to adults aged nineteen (19) to sixty-four (64), to be administered by the Department of Human Services. Separate Paying Accounts shall be established for the Medicaid Expansion Program as designated by the Chief Fiscal Officer of the State, to be used exclusively for the purpose of drawing down federal funds associated with the federal share of expenditures and for the state share of expenditures transferred from the Medicaid Expansion Program Account or for any other appropriate state match funds. The provisions of this section shall be in effect

only from July 1, 2005 through June 30, 2007."

Acts 2007, No. 1284, § 7, provided:

"The Medicaid Expansion Program as established by Initiated Act 1 of 2000 shall be a separate and distinct component embracing (1) expanded Medicaid coverage and benefits to pregnant women; (2) expanded inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64); (3) expanded non-institutional coverage and benefits to adults aged 65 and over; and (4) creation and provision of a limited benefit package to adults aged nineteen (19) to sixty-four (64), to be administered by the Department of Health and Human Services. Separate Paying Accounts shall be established for the Medicaid Expansion Program as designated by the Chief Fiscal Officer of the State, to be used exclusively for the purpose of drawing down federal funds associated with the federal share of expenditures and for the state share of expenditures transferred from the Medicaid Expansion Program Account or for any other appropriate state match funds.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.

(a) There is hereby created and recognized the Arkansas Tobacco Settlement Commission, which shall be composed of the following:

(1) The Director of the Arkansas Science and Technology Authority or his or her designee;

(2) The Director of the Department of Education or his or her designee;

(3) The Director of the Department of Higher Education or his or her designee;

(4) The Director of the Department of Human Services or his or her designee;

(5) The Director of the Department of Health or his or her designee;

(6) A healthcare professional to be selected by the President Pro Tempore of the Senate;

(7) A healthcare professional to be selected by the Speaker of the House of Representatives;

(8) A citizen selected by the Governor; and

(9) A citizen selected by the Attorney General.

(b)(1) The four (4) members of the commission who are not on the commission by virtue of being a director of an agency, will serve four-year terms. The terms shall commence on October 1 of each year. Commission members are limited to serving two (2) consecutive four-year terms.

(2) Members of the commission shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program.

(c) Members appointed to the commission and the organizations they represent shall make full disclosure of the members' participation on the commission when applying for any grant or contract funded by this chapter.

(d) All members appointed to the commission shall make full and public disclosure of any past or present association to the tobacco industry.

(e) The commission shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the commission. The commission is authorized to adopt bylaws.

(f) The commission shall meet at least quarterly. However, special meetings of the commission may be called at any time at the pleasure of the chair or pursuant to the bylaws of the commission.

(g) The commission is authorized to hire an independent third party with appropriate experience in health, preventive resources, health statistics, and evaluation expertise to perform monitoring and evaluation of program expenditures made from the program accounts pursuant to this chapter. Such monitoring and evaluation shall be performed in accordance with § 19-12-118, and the third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the commission as to the continued funding for each program.

(h) The commission is authorized to hire such staff as it may reasonably need to carry out the duties described in this chapter. The costs and expenses of the monitoring and evaluation program, as well as the salaries, costs, and expenses of staff shall be paid from the Arkansas Tobacco Settlement Commission Fund established pursuant to § 19-12-108.

(i) If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

(1) Those organizations eligible to receive grants are nonprofit and community based;

(2) Grant criteria shall be established based upon the following principles:

(A) All funds should be used to improve and optimize the health of Arkansans;

(B) Funds should be spent on long-term projects that improve the health of Arkansans;

(C) Future tobacco-related illness and health care costs in Arkansas should be minimized through this opportunity; and

(D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and

(3) Grant awards shall be restricted in amounts up to fifty-thousand dollars (\$50,000) per year for each eligible organization.

History. Init. Meas. 2000, No. 1, § 17.

A.C.R.C. Notes. Acts 2007, No. 792, § 4, provided: "The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party, not receiving tobacco settlement funding in any other contract or grant, to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics

and evaluation expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

19-12-118. Monitoring and evaluation of programs.

(a) The Arkansas Tobacco Settlement Commission is directed to conduct monitoring and evaluation of the programs established in §§ 19-12-113 — 19-12-116 to ensure optimal impact on improving the health of Arkansans and fiscal stewardship of the Tobacco Settlement. The commission shall develop performance indicators to monitor programmatic functions that are state-specific and situation-specific and to support performance-based assessment for governmental accountability. The performance indicators shall reflect short-term and long-term goals and objectives of each program, be measurable, and provide guidance for internal programmatic improvement and legislative funding decisions. The commission is expected to modify these performance indicators as goals and objectives are met and new inputs to programmatic outcomes are identified.

(b) All programs funded by the tobacco settlement and established in §§ 19-12-113 — 19-12-116 shall be monitored and evaluated to justify continued support based upon the state's performance-based budgeting initiative. These programs shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined programs, program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance-based measures for accountability that will measure specific health-related results. All expenditures that are

payable from the Tobacco Settlement Program Fund and from each of the program accounts, therein, shall be subject to the same fiscal control, accounting, budgetary, and purchasing laws as are expenditures and obligations payable from State Treasury funds, except as specified otherwise in this chapter. The Chief Fiscal Officer of the State may require additional controls, procedures, and reporting requirements that he or she determines are necessary in order to carry out the intent of this chapter.

(c) The commission is directed to establish program goals in accordance with the following initiation, short-term and long-term performance indicators for each program to be funded by the tobacco settlement, which performance indicators shall be subject to modification by the commission based on specific situations and subsequent developments. Progress with respect to these performance indicators shall be reported to the Governor and the General Assembly for future appropriation decisions:

(1) Tobacco prevention and cessation: The goal is to reduce the initiation of tobacco use and the resulting negative health and economic impact. The following are anticipated objectives in reaching this overall goal:

(A) Initiation: The Department of Health is to start the program within six (6) months of available appropriation and funding;

(B) Short-term: Communities shall establish local tobacco prevention initiatives;

(C) Long-term: Surveys demonstrate a reduction in numbers of Arkansans who smoke and/or use tobacco.

(2) Medicaid Expansion: The goal is to expand access to healthcare through targeted Medicaid expansions, thereby improving the health of eligible Arkansans:

(A) Initiation: The Department of Human Services is to start the program initiatives within six (6) months of available appropriation and funding;

(B) Short-term: The Department of Human Services demonstrates an increase in the number of new Medicaid eligible persons participating in the expanded programs.

(C) Long-term: Demonstrate improved health and reduced long-term health costs of Medicaid eligible persons participating in the expanded programs;

(3) Research and health education: The goal is to develop new tobacco-related medical and agricultural research initiatives to improve the access to new technologies, improve the health of Arkansans, and stabilize the economic security of Arkansas:

(A) Initiation: The Arkansas Biosciences Institute Board shall begin operation of the Arkansas Biosciences Institute within twelve (12) months of available appropriation and funding;

(B) Short-term: The Arkansas Biosciences Institute shall initiate new research programs for the purpose of conducting, as specified in § 19-12-115, agricultural research with medical implications,

bioengineering research, tobacco-related research, nutritional research focusing on cancer prevention or treatment, and other research approved by the Arkansas Biosciences Institute Board;

(C) Long-term: The institute's research results should translate into commercial, alternate technological, and other applications wherever appropriate in order that the research results may be applied to the planning, implementation and evaluation of any health related programs in the state. The Arkansas Biosciences Institute is also to obtain federal and philanthropic grant funding;

(4) Targeted state needs programs: The goal is to improve the healthcare systems in Arkansas and the access to healthcare delivery systems, thereby resolving critical deficiencies that negatively impact the health of the citizens of the state:

(A) College of Public Health of the University of Arkansas for Medical Sciences:

(i) Initiation: Increase the number of communities in which participants receive public health training;

(ii) Short-Term: Obtain federal and philanthropic grant funding;

(iii) Long-term: Elevate the overall ranking of the health status of Arkansas;

(B) Minority health initiative:

(i) Initiation: Start the program within twelve (12) months of available appropriation and funding;

(ii) Short-term: Prioritize the list of health problems and planned intervention for minority population and increase the number of Arkansans screened and treated for tobacco-related illnesses;

(iii) Long-term: Reduce death/disability due to tobacco-related illnesses of Arkansans;

(C) Donald W. Reynolds Center on Aging:

(i) Initiation: Start the program within twelve (12) months of available appropriation and funding;

(ii) Short-term: Prioritize the list of health problems and planned intervention for elderly Arkansans and increase the number of Arkansans participating in health improvement programs;

(iii) Long-term: Improve health status and decrease death rates of elderly Arkansans, as well as obtaining federal and philanthropic grant funding; and

(D) Area Health Education Center:

(i) Initiation: Start the new area health education center in Helena with DHEC offices in West Memphis and Lake Village within twelve (12) months of available appropriation and funding;

(ii) Short-term: Increase the number of communities and clients served through the expanded AHEC/DHEC offices;

(iii) Long-term: Increase the access to a primary care provider in underserved communities.

terly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party, not receiving tobacco settlement funding in any other contract or grant, to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation expertise. The third party retained to perform such services shall

prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

“The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009.”

19-12-119. Use of funds for the Medicaid Expansion Program Account.

(a) In addition to the purposes enumerated in § 19-12-116 for the Medicaid expansion program, the funds made available to the Medicaid Expansion Program Account may also be used to supplement current general revenues as approved by the Governor and the Chief Fiscal Officer of the State for the Arkansas Medicaid Program.

(b) None of the funds shall be used for this additional purpose if the usage will reduce the funds made available by the General Assembly for the Meals-on-Wheels program and the senior prescription drug program.

History. Acts 2002 (1st Ex. Sess.), No. 2, § 11.

A.C.R.C. Notes. References to “this

chapter” in §§ 19-12-101 — 19-12-118 may not apply to this section, which was enacted subsequently.

SUBCHAPTER 2 — TOBACCO SETTLEMENT REVENUE BONDS ACT OF 2006

SECTION.

19-12-201. Title.

19-12-202. Legislative findings, intent, and purpose.

19-12-203. Applicability of Tobacco Settlement Proceeds Act.

19-12-204. Arkansas Cancer Research Center designated as capital improvement project.

SECTION.

19-12-205. Additional Tobacco Settlement Revenue Bonds authorized.

19-12-206. Issuance of additional Tobacco Settlement Revenue Bonds by Arkansas Development Finance Authority.

Effective Dates. Acts 2006 (1st Ex. Sess.), No. 9, § 2; Apr. 7, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that cancer is one of the leading health problems and causes of death in the state; there is an immediate need for additional facilities to support research in the cause, prevention, and treatment of various types of cancer; that this act provides financial resources criti-

cal to the development and construction of necessary medical facilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden,
the date the last house overrides the veto.”

19-12-201. Title.

This subchapter shall be known and may be cited as the “Tobacco Settlement Revenue Bonds Act of 2006”.

History. Acts 2006 (1st Ex. Sess.), No.
9, § 1.

19-12-202. Legislative findings, intent, and purpose.

(a) The General Assembly finds that:

(1) Cancer is one of the leading health problems and causes of death in the state;

(2) There is an immediate need for additional facilities to support research in the cause, treatment, and prevention of various types of cancer;

(3) Because the Arkansas Cancer Research Center of the University of Arkansas for Medical Sciences is engaged in education, research, and clinical care addressing the causes, treatment, and prevention of cancer, the General Assembly has recognized the center as the official cancer institute of the State of Arkansas since its inception in 1984;

(4) It is appropriate that the center should be designated as a capital improvement project relating to health care services, health education, or health-related research under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.; and

(5) This subchapter provides financial resources critical to the development and construction of necessary medical facilities by authorizing the issuance of an additional series of Tobacco Settlement Revenue Bonds in support of the center.

(b) This subchapter is not intended to amend nor does it amend Initiated Act 1 of 2000, the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.

(c) The purpose of this subchapter is to designate an additional capital improvement project as anticipated by § 19-12-106(b)(4) and to enact implementation legislation necessary to authorize an additional series of Tobacco Settlement Revenue Bonds to finance a portion of the additional capital improvement project as provided under § 19-12-106(g).

History. Acts 2006 (1st Ex. Sess.), No.
9, § 1.

19-12-203. Applicability of Tobacco Settlement Proceeds Act.

The Tobacco Settlement Proceeds Act, § 19-12-101 et seq., is fully applicable to this subchapter and any Tobacco Settlement Revenue Bonds issued under this subchapter.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-204. Arkansas Cancer Research Center designated as capital improvement project.

As authorized by § 19-12-106(b)(4), the Arkansas Cancer Research Center of the University of Arkansas for Medical Sciences is designated as a capital improvement project relating to health care services, health education, or health-related research.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-205. Additional Tobacco Settlement Revenue Bonds authorized.

Additional Tobacco Settlement Revenue Bonds may be issued in connection with the capital improvement project described in § 19-12-204 under the following conditions:

(1) No more than five million dollars (\$5,000,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one (1) year to pay debt service requirements for the capital improvement project;

(2) Annual transfers to the Tobacco Settlement Debt Service Fund allocated to the capital improvement project shall not commence until the Tobacco Settlement Revenue Bonds issued in 2001 under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq., are no longer outstanding; and

(3) No more than forty million dollars (\$40,000,000) in an initial principal amount of Tobacco Settlement Revenue Bonds may be issued for the capital improvement project.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-206. Issuance of additional Tobacco Settlement Revenue Bonds by Arkansas Development Finance Authority.

(a) If revenues in the Tobacco Settlement Debt Service Fund are sufficient to meet Debt Services Requirements with regard to additional Tobacco Settlement Revenue Bonds that may be issued in connection with the capital improvement project described in § 19-12-204, then the Arkansas Development Finance Authority shall issue additional Tobacco Settlement Revenue Bonds in accordance with the limitations

established in § 19-12-205 to be used for financing a portion of the capital improvement project described in § 19-12-204.

(b) The additional Tobacco Settlement Revenue Bonds shall be issued as set forth under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq., and shall be entitled to the same rights and protections as the Tobacco Settlement Revenue Bonds issued in 2001 under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

APPENDIX — TITLE 19

BOND ISSUES

The following laws relate to bond issues which had not matured at the time of publication of this code. While they are not laws of a general and permanent nature, and consequently are not codifiable, they are included in this appendix for easy reference.

APPX.

1. ARKANSAS REVENUE DEPARTMENT BUILDING ACT — ACTS 1961 (1ST EX. SESS.), NO. 38, AS AMENDED BY ACTS 1997, NO. 250.
2. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING ACT — ACTS 1965, NO. 469.
3. WAR MEMORIAL STADIUM, ADDITIONAL BONDS — ACTS 1970 (1ST EX. SESS.), NO. 9.
4. ARKANSAS DEPARTMENT OF PUBLIC SAFETY BUILDING ACT — ACTS 1977, NO. 490 AS AMENDED BY ACTS 1979, NO. 1086, §§ 2-5; 1980 (1ST EX. SESS.), NO. 7.
5. ARKANSAS STATE EDUCATION BUILDING EXPANSION ACT — ACTS 1977, NO. 554.
6. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING EXPANSION ACT — ACTS 1977, NO. 686, AS AMENDED BY ACTS 1997, NO. 250.
7. ARKANSAS REVENUE DEPARTMENT BUILDING EXPANSION ACTS — ACTS 1977, NO. 749, AS AMENDED BY ACTS 1997, NO. 250.
8. REGULATORY AGENCIES BUILDING — ACTS 1977, NO. 820.
9. REGULATORY AGENCIES BUILDING — ACTS 1979, NO. 1102.
10. OIL AND GAS COMMISSION BUILDING — ACTS 1985, NO. 270.
11. WAR MEMORIAL STADIUM, REMISSION OF TRUST FUNDS — ACTS 1985, NO. 393.
12. CAPITOL MALL FACILITY AND STATE AGENCIES FACILITIES ACQUISITION ACT OF 1991 — ACTS 1991, NO. 235, AS AMENDED BY ACTS 1991, NO. 923.
13. DEPARTMENT OF HEALTH BUILDING EXPANSION ACT OF 1991 — ACTS 1991, NO. 1162.
14. 1995 NEW REVENUE DIVISION BUILDING ACT — ACTS 1995, NO. 725, AS AMENDED BY ACTS 1997, NO. 250.
15. HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS — ACTS 1995, NO. 1007.
16. DEPARTMENT OF ARKANSAS STATE POLICE HEADQUARTERS FACILITY AND WIRELESS DATA EQUIPMENT FINANCING ACT — ACTS 1997, NO. 1057.

1. ARKANSAS REVENUE DEPARTMENT BUILDING ACT — ACTS 1961 (1ST EX. SESS.), NO. 38, AS AMENDED BY ACTS 1997, NO. 250.

SECTION 1. This Act shall be referred to and may be cited as the “Arkansas Revenue Department Building Act.”

SECTION 2. There is hereby created and established a Commission to be known as the Arkansas Revenue Department Building Commission, hereinafter referred to as the “Commission”.

SECTION 3. The Commission shall consist of five (5) members. The Commissioner of Revenues and the Secretary of State shall be, ex-officio, members, and Chairman and Secretary, respectively, of the Commission. Three (3) members of the Commission shall be appointed by the Governor from resident electors of this State.

SECTION 4. Members of the Commission shall receive no pay for their services, but may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

SECTION 5. The terms of office of the original members of the Commission so appointed by the Governor shall commence upon qualification after appointment and shall be arranged by the Governor in such manner that the term of one of such members shall expire on

the 14th day of January of each year, beginning with January 14, 1963. For each member appointed by the Governor for a regular term subsequent to the expiration of the term of the original member, the term of office shall commence on the 15th day of January following such expiration date and shall end on the 14th day of January of the third year following the year in which such regular term commenced. Any vacancies arising in the membership of the Commission so appointed by the Governor for any reason other than the expiration of the regular terms for which such members were appointed, shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

SECTION 6. The Commission is hereby authorized to:

(a) Arrange for a suitable site for the Revenue Department Building, on the State Capitol Grounds in Little Rock, Pulaski County, Arkansas; thereafter, on such site, construct and equip such building; and obtain the necessary funds for the construction and equipping thereof by the issuance of Revenue Bonds as hereinafter in this Act specified.

(b) Arrange for the housing therein of the State Revenue Department and such other State agency or agencies as space and facilities may permit from time to time and with reference to other agencies, if any, to rent, lease, or otherwise make space available upon such terms and conditions and for such rentals, if any, as the Commission may determine;

(c) Purchase, lease or rent any corporeal or personal property.

(d) Receive bequests or donations of any real, corporeal or personal property.

(e) Sell, barter, lease or rent any real, corporeal or personal property, or convert into money any such property which cannot be used in the form received.

(f) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authority in this Act conferred and to carry out the intent and purposes of this Act.

SECTION 7. Meetings of the Commission shall be held on call by the Chairman or by any three or more members on advance notice to each member, at such place or places as may suit the Commission's convenience. All meetings of the Commission shall be open to the public, and records of the proceedings thereof shall be kept. A quorum for the transaction of business at any meeting shall consist of not less than three (3) members, and the affirmative vote of three (3) members shall be requisite for the authorizing or approval of any action or the passage or adoption of any motion or resolution.

SECTION 8. The Chairman of the Commission shall be custodian of all property held in the name of the Commission and shall be its disbursing agent and executive officer. The Commission may, by resolution duly adopted, delegate to the Chairman any of the powers or

functions vested in or imposed upon it by this Act, and until such a resolution shall subsequently have been modified or rescinded, such delegated powers and functions may be exercised by the Chairman in the name of the Commission. The Chairman shall furnish bond to the State, with a corporate surety thereon, in the penal sum of Twenty-five Thousand Dollars (\$25,000), conditioned that he will faithfully perform his powers, functions and duties and properly handle all funds received and disbursed by him and account therefor. An additional disbursing agent's bond shall not be required of the Chairman, and the bond so furnished shall be filed in the office of the Auditor of State. The premium on the bond shall be a proper charge against funds of the Commission.

SECTION 9. The Revenue Department Building after its completion shall house the State Revenue Department, and shall contain facilities for the proper conduct of the business of said Department. In addition, the Revenue Department Building may house such other agency or agencies as space and facilities will permit from time to time.

SECTION 10. All monies received from collections of the charge of \$1.00 for each original and each duplicate certificate of title to a motor vehicle, as provided in Section 83 of Act 142 of the Acts of the General Assembly of the State of Arkansas for the year 1949, approved February 23, 1949, and Section 1 of Act 436 of the Acts of the General Assembly of the State of Arkansas for the year 1961, approved March 15, 1961, are hereby specifically declared to be cash funds. Said monies shall not be deposited in the State Treasury, but as soon as practicable after receipt shall be deposited in the "Revenue Department Building Fund", hereafter in this Act created. So long as any Revenue Bonds issued under this Act shall be outstanding, until the entire principal and interest on said outstanding bonds shall be paid or adequate provision made for the payment thereof, said charge shall be collected and the monies received therefrom shall be deposited, pledged and used as in this Act provided.

SECTION 11. The Commissioner of Revenues is hereby authorized and directed to establish and maintain a permanent ledger record of all leases and agreements for the production or taking of oil, gas, casing-head gas, sand, gravel, coal or other minerals or hydrocarbons from the beds or bars of navigable rivers and lakes in the State of Arkansas or any other lands owned by or held in the name of the State of Arkansas. The person, firm, company, corporation or association entering into such a lease or agreement with the State of Arkansas shall pay to the Commissioner of Revenues a five dollar (\$5.00) charge for the recording of each said lease or agreement in said permanent ledger record and the maintaining of said ledger record. The proceeds of said five dollar (\$5.00) charge are hereby specifically declared to be cash funds and shall not be placed in the State Treasury but shall be deposited in the "Revenue Department Building Fund", hereafter in this Act created. So long as any Revenue Bonds issued under this Act shall be outstanding, until the entire principal of and interest on said outstanding bonds

shall be paid or adequate provision made for the payment thereof, said charge shall be collected and the monies received therefrom shall be deposited, pledged and used as in this Act provided.

SECTION 12. (a) There is hereby created a Trust Fund which shall be designated "Revenue Department Building Fund" which shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. There shall be deposited into this fund the following:

(1) All moneys collected on and after the first day of the month next following the effective date of this Act from the charge for Certificate of Title referred to in Section 10 of this Act.

(2) All moneys collected from the charge imposed by Section 11 of this Act.

(3) All moneys received by the Commission from any other source whatever, including, without limitation, rental from other agencies, if any.

(b) All monies in the Revenue Department Building Fund shall be used solely, and in the order of priority, hereinafter specified:

(1) Beginning on the first day of the month immediately following the month within which Revenue Bonds are issued under this Act, and continuing on the first day of each month thereafter until the principal of and interest on all bonds issued under this Act are paid, or adequate provision made for their payment, there shall be transferred from the Revenue Department Building Fund and deposited in a trust fund which is hereby created and designated "Revenue Department Building Bond Fund" (herein sometimes called "Bond Fund") a sum equal to at least one-sixth ($\frac{1}{6}$) of the next installment of interest and one-twelfth ($\frac{1}{12}$) of the next installment of principal and the amounts necessary to provide for the paying agent's fees, plus such additional amounts, if any, as shall be required to insure that on the next interest paying date and the next principal paying date there will be sufficient funds in the Bond Fund to pay the interest and principal then maturing and plus such additional amounts as shall be necessary to establish and maintain a reserve for contingencies in the Bond Fund (if the Commission deems it necessary or desirable to provide for such reserve) in such amount as the Commission may determine; provided, however, that if the amount deposited in the Bond Fund in any month pursuant to the preceding provisions of this Section 12 (b) (1) shall be less than fifty percentum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act and less than one hundred percentum (100%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges imposed by Section 11 of this Act, there shall be deposited into the Bond Fund the additional amount necessary to make the total deposit for said month equal fifty percentum (50%) of said deposit of charges referred to in Section 10 and one hundred percentum (100%) of said deposit of charges imposed by Section 11. The Bond Fund shall be maintained by the Commission in

such depository bank or banks as may from time to time be designated by the Commission. The monies in the Bond Fund shall be used for no other purpose than to pay the principal of, interest on, redemption premiums, if any, and paying agent's fees in connection with the bonds issued under this Act, at maturity or at redemption prior to maturity.

(2) On the first day of the month next following the month in which collections from the charges referred to in Section 10 of this Act are first deposited into the Revenue Department Building Fund pursuant to the provisions of Section 12 (a) (1) and continuing on the first day of each month thereafter through the first day of the month immediately preceding the month on the first day of which deposits into the Bond Fund are required to be made pursuant to the provisions of Section 12 (b) (1), there shall be withdrawn from the Revenue Department Building Fund and deposited into the State Treasury as a special revenue and there credited to the Constitutional and Fiscal Agencies Fund fifty per centum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act. Commencing on the first day of the month on which date deposits are required to be made into the Bond Fund pursuant to the provisions of Section 12 (b) (1) and continuing on the first day of each month thereafter as long as said deposits into the Bond Fund are required to be made, there shall be withdrawn from the Revenue Department Building Fund and deposited in the State Treasury (and, there credited as aforesaid) that portion of the amounts deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act not required to be deposited into the Bond Fund by the provisions of Section 12 (b) (1) of this Act but in no event more than fifty per centum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from said charges referred to in Section 10.

(3) The monies remaining in the Revenue Department Building Fund after the provisions of Section 12 (b) (1) and (2) have been fully complied with, may be used, at the option of the Commission, for the payment of the expenses of the Commission incurred in the carrying out of its functions and powers under this Act or may be transferred to the Bond Fund.

(c) After the principal of and interest on all bonds issued under this Act are fully paid, or adequate provision made for their payment, all monies then remaining in the Revenue Department Building Fund and in the Bond Fund and all monies received from collections of the charges referred to in Section 10 of this Act and all monies received from collections of the charge imposed by Section 11 of this Act shall be deposited in the State Treasury as a special revenue, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 13. (a) The Commission is authorized and empowered to issue revenue bonds in the total principal amount of not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) and to use the

proceeds thereof for defraying the cost of constructing the Revenue Department Building (including, without limitation, all construction costs, architectural and engineering fees, legal fees and other necessary expenses), to defray the expenses of issuing the revenue bonds, to provide for the creation of a reserve for contingencies fund (if the Commission deems it necessary or desirable) and to provide for the payment of interest on the bonds, if necessary, until sufficient funds are available therefor in the Bond Fund.

(b) Said revenue bonds shall be authorized by resolution of the Commission. The bonds shall be coupon bonds payable to bearer, may be made subject to registration as to principal only, may be dated on such date, may mature at such time or times, not exceeding twenty (20) years from date, may bear interest at such rate or rates, not exceeding four and one-half per cent (4 ½%) per annum, may be in such form, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, and may contain such terms, covenants and conditions not inconsistent with the provisions of this Act, as the authorizing resolution may provide, including, without limitation, those pertaining to the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the maintenance of funds and reserves, the nature and extent of the security, the rights, duties and obligations of the Commission and the Trustee for the holders or registered owners of the bonds, and the rights of the holders or registered owners of the bonds. Bonds issued hereunder shall have all the qualities of negotiable instruments under the Negotiable Instruments Laws of this State.

(c) Revenue bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published once a week for three (3) consecutive weeks in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale. The Commission shall pay no fiscal agents' fees in connection with the sale or issuance of the bonds. The bonds may be sold at such price as the Commission may accept, but in no event shall any bid be accepted which shall be less than par and accrued interest on the basis of the interest rate bid, nor shall any bid be accepted which specifies an interest rate in excess of four and one-half per cent (4 ½%) per annum. The bonds may be sold with the privilege of conversion to an issue bearing a lower rate or rates of interest upon such terms that the Commission receive no less and pay no more than it would receive and pay if the bonds were not converted and the conversion shall be subject to the approval of the Commission.

(d) Revenue bonds issued hereunder shall be executed by the manual signature of the Chairman of the Commission and by the manual signature of the Secretary of the Commission. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the

delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. The Commission shall adopt and use a seal in the execution and issuance of bonds authorized hereunder and each bond shall be sealed with the seal of the Commission.

SECTION 14. It shall be plainly stated on the face of each revenue bond that the same has been issued under the provisions of this Act, and revenue bonds issued hereunder shall be general obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged. No member of the Commission shall be personally liable on the bonds, or for any damages sustained by anyone in connection with the contracts with the holders or registered owners of the bonds or the construction and equipping of the Revenue Department Building unless he shall have acted with a corrupt intent. All covenants and agreements entered into and made by the Commission shall be binding in all respects upon the Commission and the members thereof and their successors from time to time in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 15. The principal of, interest on, and paying agent's fees in connection with the Revenue Bonds issued under this Act shall be secured by a pledge of the gross revenues collected from the charges referred to in Section 10 of this Act and the charges imposed by Section 11 of this Act and the gross revenues derived from the leasing or renting of space in the Revenue Department Building to other agencies (it being understood that although all of the gross revenues collected from the charges referred to in Section 10 of this Act are pledged that portion described in Section 12 of this Act not required by the provisions of said Section 12 to be deposited in the Bond Fund will be withdrawn from the Revenue Department Building Fund and deposited in the State Treasury and credited as in said Section 12 provided and the portion so withdrawn will at the time of withdrawal in accordance with the provisions of said Section 12 and thereafter be released from said pledge), which revenues have been elsewhere in this Act and are hereby specifically declared to be cash funds, restricted in their use, and dedicated and to be used solely as provided in this Act. The principal of, interest on, and paying agent's fees in connection with the bonds shall be payable solely from the monies in the Bond Fund and the monies required by this Act to be deposited in the Bond Fund.

SECTION 16. All officers, departments, agencies and commissions of the State of Arkansas are hereby expressly authorized to execute and to enter into lease agreements with the Commission for the leasing of space in the Revenue Department Building when there is space therein over and above the requirements of the State Revenue Department. Such lease agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and particular state officer, agency or

Commission to be appropriate and in the best interests of all concerned. All such lease agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency or commission performing the functions exercised by the agency or commission executing the lease agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 17. Revenue bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 18. The Board of Trustees of any retirement system created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in the bonds of the Commission issued under the provisions of this Act.

SECTION 19. The agency of the State authorized by law to audit the records and accounts of the various state agencies is hereby authorized and directed to audit the records and accounts of the Commission, and to furnish a copy of the report thereof to the Commission.

SECTION 20. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the Arkansas Revenue Department Building, and to supervise and inspect such construction. After the Commission shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction and equipping of the Arkansas Revenue Department Building in accordance with applicable laws governing the constructing and equipping of public buildings.

SECTION 21. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 22. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until bonds authorized by this Act shall have been issued and actually sold by the Commission.

SECTION 23. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause, shall not affect the validity of the remainder of the Act.

SECTION 24. On the first day of the month next following the effective date of this Act, the balance in the Revenue Department Building Fund in the State Treasury shall, by the State Treasurer, be transferred to the Constitutional and Fiscal Agencies Fund, there to be used, as appropriated by the General Assembly, for the operation and

maintenance of the Revenue Department Building, and as of said date (the first day of the month next following the effective date of this Act) Act 266, approved March 14, 1961, and Sections 2, 3 and 4 of Act 436, approved March 15, 1961, are hereby repealed.

SECTION 25. It has been found and it is hereby declared by the General Assembly: That the principal office of the State Revenue Department is, and should be, located on the State Capitol Grounds; that its present office space is wholly inadequate to permit it to properly carry out its functions and duties as required by law; that because of such inadequacy the State is losing badly needed tax revenue and the citizens of the State of Arkansas are seriously inconvenienced in dealing with the State Revenue Department; that no other office space is available to the State Revenue Department in the State Capitol Building or in other office buildings on the State Capitol Grounds; and that only by the immediate operation of this Act may such conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force from and after its passage and approval.

APPROVED: September 8, 1961.

2. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING ACT — ACTS 1965,
No. 469.

SECTION 1. This Act may be referred to and cited as the "Arkansas State Department of Health Building Act".

SECTION 2. There is hereby created and established a commission to be known as the "Arkansas State Department of Health Building Commission", hereafter sometimes referred to as the "Commission".

SECTION 3. The Commission shall consist of five (5) members. The State Health Officer shall be an ex officio member of the Commission and shall be Chairman. Four (4) members of the Commission shall be appointed by the Governor from resident electors of this State. The Commission shall designate a Secretary, who need not be a member of the Commission.

SECTION 4. Members of the Commission shall receive no pay for their services but, with respect to attendance at each regular or special meeting of the Commission, appointive members shall be entitled to Fifteen Dollars (\$15.00) per diem, plus a mileage allowance for each mile traveled from his home to the place of meeting and return in the amount approved, from time to time, for State employees.

SECTION 5. The terms of office of the original members of the Commission so appointed by the Governor shall commence upon qualification after appointment and shall be arranged by the Governor in such manner that the term of one (1) of such members shall expire on the 14th day of January of each year, beginning with January 14, 1966. For each member appointed by the Governor for a regular term subsequent to the expiration of the term of the original member, the

term of office shall commence on the 15th day of January following such expiration date and shall end on the 14th day of January of the fourth year following the year in which such regular term commenced. Any vacancies arising in the membership of the Commission so appointed by the Governor for any reason other than the expiration of the regular terms for which such members were appointed, shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

SECTION 6. The Commission is hereby authorized and empowered to:

(a) Arrange for a suitable site for the State Department of Health Building either on the State Capitol Grounds as now or hereafter existing or on the State Hospital Grounds, as now or hereafter existing, in the City of Little Rock, Arkansas, and thereafter on the site so selected construct and equip a State Department of Health Building. In this regard, the appropriate board, agency or officers of the State of Arkansas in charge of the properties upon which a site may be selected are hereby authorized and directed to negotiate with the Commission and to make available to the Commission such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of the particular board, agency or officers or of other State boards, agencies or officers for land use purposes.

(b) Arrange for the housing of the various divisions, units, agencies, officers and employees under the jurisdiction of the State Board of Health, the State Health Officers and the State Department of Health and such other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals, if any, as the Commission may determine.

(c) Construct or cause to be constructed parking facilities to serve the State Department of Health Building and to serve such other agencies, officers and employees and the public having business therein.

(d) Obtain the necessary funds for financing the objects specified in this Section 6.

(e) Purchase, lease or rent and receive bequests or donations of, and sell or barter, any property, personal or mixed, or convert into money any property bequeathed or donated to it not needed or which cannot be used in the form received.

(f) Establish accounts in one (1) or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys, and properties from agencies of the Government of the United States of America, from any State or other Governmental agency, from any public or private corporation, agency or organization of any nature, and from any individual group.

(i) Invest and reinvest any of its moneys.

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authority in this Act conferred and to carry out the intent and purposes of this Act.

SECTION 7. Meetings of the Commission shall be held on call by the Chairman or by any three or more members on advance notice to each member, at such place or places as may suit the Commission's convenience. Meetings of the Commission shall be open to the public, and records of the proceedings thereof shall be kept. A quorum for the transaction of business at any meeting shall consist of not less than three (3) members and the affirmative vote of three (3) members shall be requisite for the authorizing or approval of any action or the passage or adoption of any motion or resolution.

SECTION 8. The Chairman of the Commission shall be custodian of the State Department of Health Building, and shall be the Commission's disbursing agent and executive officer. The Commission may, by resolution duly adopted, delegate to the Chairman any of the powers or functions vested in or imposed upon it by this Act, and until such a resolution shall subsequently have been modified or rescinded, such delegated powers and functions may be exercised by the Chairman in the name of the Commission. The Chairman shall furnish bond to the State, with a corporate surety thereon, in the penal sum of Twenty Five Thousand Dollars (\$25,000), conditioned that he will faithfully perform his powers, functions and duties and properly handle all funds received and disbursed by him and account therefor. An additional disbursing agent's bond shall not be required of the Chairman, and the bond so furnished shall be kept in the office of the Auditor of State. The premium on the bond shall be a proper charge against funds of the Commission.

SECTION 9. The State Department of Health Building after its completion shall house the State Board of Health, the State Health Officer, the State Department of Health divisions, and the divisions, units, agencies, officer and employees under the supervision thereof, and shall contain facilities for the proper conduct of the business of the State Board of Health, the State Department of Health, and such divisions, units, agencies, officers and employees thereof. In addition, the State Department of Health Building may house such others as space and facilities will permit from time to time.

SECTION 10. [Codified as 20-7-123.]

SECTION 11. (a) The Commission is hereby authorized and empowered to issue revenue bonds from time to time in the total aggregate principal amount of not to exceed Three Million Dollars (\$3,000,000) and to use the proceeds thereof, together with any other available funds, for defraying the costs of the objects set forth in Section 6 thereof, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the bonds, and for providing for the creation of a reserve for contingencies to secure the payment of the bonds, if the Commission deems it necessary or desirable, and for providing for the payment of interest on bonds, if

necessary, until sufficient funds are available therefor out of pledged revenues.

(b) Said revenue bonds shall be authorized by resolution of the Commission. All bonds to the total authorized principal amount may be issued at one time or, as determined by the Commission, in series from time to time, in which event the initial series shall be designated Series A and subsequent series shall be designated in alphabetical order. The bonds of each series shall rank on a parity as to lien on the revenues pledged for their payment and as to the security for their payment with the bonds of other series, regardless of date of issuance. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only with interest coupons, or may be registrable as to both principal and interest without coupons, and may be made exchangeable for bonds of another denomination, which bonds of another denomination may in turn be either coupon bonds payable to bearer or coupon bonds registrable as to principal only, or bonds registrable as to both principal and interest without coupons; may be in such form and denomination; may have such date or dates; may be stated to mature at such times; may bear interest payable at such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding $4\frac{1}{2}\%$ per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such prices; and may contain such terms and conditions, all as the Commission shall determine. The bonds shall have the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership, as set forth above. The authorizing resolution may contain any other terms, covenants and conditions that are deemed desirable, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the rights, duties and obligations of the Commission and of the holders and registered owners of the bonds as the Commission shall determine.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published once a week for three (3) consecutive weeks in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale. The Commission shall pay no fiscal agent's fees in connection with the sale or issuance of the bonds. The bonds may be sold at such price as the Commission may accept, but in no event shall any bid be accepted which shall be less than par and accrued interest on the basis of the interest rate bid, nor shall any bid be accepted which specifies an interest rate in excess of $4\frac{1}{2}\%$ per annum. The award, if made, shall be to the bidder whose bid results in the lowest net interest cost determined by computing the aggregate interest cost at the rate bid and deducting therefrom any premium. The bonds may be sold with the privilege of conversion to an issue bearing a lower rate or rates of interest upon such terms that the Commission receive no less and pay

no more than it would receive and pay if the bonds were not converted and the conversion shall be subject to such conditions as shall be specified by the Commission and shall be subject to the approval of the Commission.

(d) Bonds issued hereunder shall be executed by the manual or facsimile signature of the Chairman of the Commission and by the manual signature of the Secretary of the Commission. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signature shall nevertheless be valid and sufficient for all purposes. The Commission shall adopt and use a seal in the execution and issuance of bonds authorized hereunder and each bond shall be sealed with the seal of the Commission.

SECTION 12. It shall be plainly stated on the face of each bond that the same has been issued under the provisions of this Act and bonds issued hereunder shall be general obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged and the bonds shall not be secured by a mortgage or lien on any land or building belonging to the State of Arkansas. No member of the Commission shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act unless he shall have acted with a corrupt intent.

SECTION 13. The principal of, interest on and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of the fee revenues referred to in Section 10 of this Act and the gross revenues derived from the leasing or renting of space in the State Department of Health Building to others, herein collectively referred to as "pledged revenues", and such pledged revenues are hereby specifically declared to be cash funds restricted in their use, and dedicated and to be used solely as provided in this Act. There is hereby created a fund designated "State Department of Health Revenue Bond Fund" to be maintained at such depository as shall be specified by the Commission, which fund shall be a trust fund and after the issuance of any bonds hereunder moneys therein shall be appropriated solely for the payment of the principal of, interest on and paying agent's fees in connection with the bonds at maturity and at redemption prior to maturity, except moneys that are withdrawn therefrom pursuant to the subsequent provisions hereof, all as shall be specified and subject to the terms and conditions set forth in the authorizing resolution of the Commission. The pledged revenues shall not be deposited into the State Treasury, but, as and when received, shall be deposited into the State Department of Health Revenue Bond Fund. On March 1, June 1, September 1 and December 1 of each year, if not required for paying the principal of, interest on, and paying agent's fees in connection with the

bonds as the same become due, there shall be released from the pledged revenues and withdrawn from the State Department of Health Revenue Bond Fund and deposited, as a special revenue, to the credit of the Public Health Fund in the State Treasury, that amount of the pledged revenues equaling the sum of the following:

(a) One-half of the revenues derived from the fee referred to in Section 10 (a) (3) hereof;

(b) One-fourth of the revenues derived from the fee referred to in Section 10 (a) (5) hereof;

(c) One-half of the revenues derived from the fee referred to in Section 10 (a) (6) hereof;

(d) One-half of the revenues derived from the fee referred to in Section 10 (a) (8) hereof;

(e) One-fourth of the revenues derived from the fee referred to in Section 10 (a) (9) hereof.

The Commission may, if it so desires, use any of the pledged revenues in the State Department of Health Revenue Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of the objects set forth in Section 6 of this Act. The principal of, interest on and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the State Department of Health Revenue Bond Fund and the moneys required by this Act to be deposited into the State Department of Health Revenue Bond Fund. The Commission is directed to insert appropriate provisions in the authorizing resolution for the investing and reinvesting of moneys in the State Department of Health Revenue Bond Fund in short term direct obligations of the United States of America having maturity dates not later than the date that the moneys therein will be needed for the authorized purposes and all income derived from such investments shall be and become a part of the State Department of Health Revenue Bond Fund.

SECTION 14. All officers, departments, agencies and commissions of the State of Arkansas are hereby expressly authorized to execute and enter into Lease Agreements with the Commission for the leasing of space in the State Department of Health Building when there is space therein over and above the requirements of the State Board of Health, the State Health Officer, the State Department of Health, and the divisions, units, agencies, officers and employees required by this Act to be housed therein. Such Lease Agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the particular State Officer, department, agency or commission to be appropriate and in the best interests of all concerned. All such Lease Agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor department, agency or commission performing the functions exercised by the department, agency or commission executing the Lease Agreement, in accordance with the terms of such covenants and agreements, and all of the

provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 15. Each resolution authorizing the issuance of bonds under this Act shall, together with this Act, constitute a contract by and between the Commission and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other appropriate proceedings at law or in equity.

SECTION 16. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 17. The Board of Trustees of any retirement system now existing or hereafter created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in bonds issued under the provisions of this Act.

SECTION 18. The agency of the State authorized by law to audit the records and accounts of the various State agencies is hereby authorized and directed to audit the records and accounts of the Commission and to furnish a copy of the report thereof to the Commission.

SECTION 19. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the State Department of Health Building and to supervise and inspect such construction. After the Commission shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction and equipping of the State Department of Health Building in accordance with applicable laws governing the constructing and equipping of public buildings. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it to effectively carry out the functions, powers and duties conferred and imposed upon it by this Act.

SECTION 20. The Commission shall include necessary provisions in the authorizing resolution to require the deposit of the proceeds of the bonds (except the accrued interest) into a special construction fund which shall be a trust fund in such depository as the Commission shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation and all moneys in said construction fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested as hereafter provided. The accrued interest received by the Commission at the delivery of the bonds shall be deposited into the State Department of Health Revenue Bond Fund. The moneys in said construction fund shall be used solely as specified in Section 11 (a) hereof. The Commission shall include appropriate provi-

sions in the authorizing resolution pertaining to the investing and reinvesting of moneys in said construction fund in short term direct general obligations of the United States of America and all income derived from such investments shall be deemed to constitute and be a part of said construction fund.

SECTION 21. Sole and complete jurisdiction and authority is hereby vested in the Commission to hold, deal with and dispose of the present State Department of Health building (called "present health building"). The Commission is hereby authorized and directed to take the necessary steps to either sell the present health building to another agency or department of the State of Arkansas upon such terms as shall be mutually agreeable to the parties involved or to lease all or portions of the present health building and space therein to other agencies and departments of the State of Arkansas upon such terms as shall be mutually agreeable to the parties involved. In this regard, all other agencies and departments of the State of Arkansas are hereby expressly authorized to execute and enter into necessary contracts and agreements, including lease agreements, with the Commission for the acquisition of or the leasing of space in the present health building.

SECTION 22. [Codified as 20-7-123n.]

SECTION 23. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or, things.

SECTION 24. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or Series A in the event the bonds are delivered in series, shall have been actually sold and delivered by the Commission.

SECTION 25. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of the Act.

SECTION 26. All acts and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 27. It is hereby found and declared by the General Assembly that the present building is wholly inadequate to house the State Board of Health, the State Health Officer, the State Department of Health and the divisions, units, agencies, officers and employees thereof, with the result that it is impossible to properly and efficiently carry out functions and duties required by law; that because of such inadequacy the State is not having its health and related needs properly taken care of, all of which is to the detriment of the public health, safety and welfare; and that only by the immediate operation of this Act can these conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full

force from and after its passage and approval. APPROVED: March 20, 1965.

3. WAR MEMORIAL STADIUM, ADDITIONAL BONDS — ACTS 1970 (1ST EX. SESS.), NO. 9.

SECTION 1. The Stadium Commission created under the provisions of Act 249, approved March 18, 1947, is hereby authorized and empowered to borrow funds from time to time not exceeding the principal sum of \$400,000 outstanding at any one time for the purpose of financing the cost of improvements to and extensions of the physical plant of War Memorial Stadium and expenses incidental thereto which the Stadium Commission may determine in its discretion to construct.

SECTION 2. As evidence of any such loan of funds the Stadium Commission is authorized and empowered to issue one series of bonds, certificates of indebtedness or other debt obligations provided that the principal amount thereof shall not exceed the sum of \$400,000. Such bonds, certificates of indebtedness or other debt obligations shall have such date or dates, shall mature at such time or times, shall be in such form and denominations, may be subject to such terms of redemption, shall bear such rate or rates of interest and shall be sold for such price or prices, and in such manner, all as the Stadium Commission in its discretion by resolution shall determine. The said bonds, certificates of indebtedness or other debt obligations shall have all the qualities of negotiable instruments under the laws of the State of Arkansas. The said bonds, certificates of indebtedness or other debt obligations shall be considered as obligations only of the Stadium Commission, and in no event shall they ever be considered a debt for which the faith and credit of the State of Arkansas or any of its revenues are pledged.

SECTION 3. The Stadium Commission is empowered and authorized to provide for the retirement of such bonds, certificates of indebtedness or other debt obligations by a pledge of a portion of the net revenues of the Stadium Commission not otherwise pledged to secure existing debt, specifically including those funds presently pledged to payment of any outstanding 2- $\frac{1}{4}$ % War Memorial Stadium Revenue Bonds and also any outstanding War Memorial Stadium Revenue Refunding Bonds.

SECTION 4. This Act shall not create any right of any character and no right of any character shall arise under or pursuant to it, unless and until bonds, certificates of indebtedness or other debt obligations authorized by this Act shall have been actually sold and delivered.

SECTION 5. Interest on all bonds, certificates of indebtedness or other debt obligations issued under this Act shall be exempt from State Income Taxes and principal shall be exempt from Inheritance and Estate Taxes.

SECTION 6. The provisions of this Act are hereby declared to be severable. If any provision shall be held to be invalid or to be inapplicable to any person or circumstances, such holding shall not affect the validity or applicability of the remainder hereof.

SECTION 7. It has been found and is hereby declared by the General Assembly of the State of Arkansas that it is necessary at this time for certain extensions and improvements to be made to War Memorial Stadium, and that in order to accomplish same it is necessary for the Stadium Commission to be expressly authorized to immediately borrow funds for the financing of such improvements in order that same be completed by the 1970 football season; and that these necessary improvements can be accomplished only by the immediate effect of this Act. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval. APPROVED: March 13, 1970.

4. ARKANSAS DEPARTMENT OF PUBLIC SAFETY BUILDING ACT — ACTS 1977, NO. 490 AS AMENDED BY ACTS 1979, NO. 1086, §§ 2-5; 1980 (1ST EX. SESS.), NO. 7.

SECTION 1. This Act shall be known and may be cited as the “Arkansas Department of Public Safety Building Act”.

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

“Act No. 716” means Act No. 716 of 1975, as now in effect or as hereafter amended.

“Agency” or “State agency” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

“Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

“Building” means the Arkansas Department of Public Safety Building, the construction of which is authorized by this Act. As used herein, the term “Building” means a single building or such complex of buildings as may be determined best to serve the needs of the Department including the Crime Laboratory shall refer to and include such related structures, fixtures, and facilities (including, without limitation, parking facilities) as may be determined to be appropriate.

“Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Building and to make other necessary expenditures in connection therewith, by such methods and in such manner as the State Building Services shall determine to be necessary or desirable to accomplish the powers, purposes, and authorities set forth in this Act.

“Division” means any division, bureau, section, office or officer of the Department.

“Department” means the Department of Public Safety of the State of Arkansas, created by Act No. 38 of 1971, as amended, and any successor agency.

“Pledged revenues” means all revenues authorized by Section 7 of this

Act to be pledged for the security and payment of the bonds.

"The State Building Services" means Arkansas State Building Services, being the agency created by Act No. 716, or any successor agency.

SECTION 3. In addition to the powers, purposes, and authorities set forth elsewhere in this Act or in other laws, the State Building Services is hereby authorized and empowered to:

(a) construct the Arkansas Department of Public Safety Building, on a site or sites selected by the State Building Services. In this regard, the State Building Services is authorized to acquire such site or sites, from a State agency or agencies and/or from a private owner or owners, by negotiation or by condemnation as provided by Section 3 of Act No. 716, which acquisition is hereby expressly approved;

(b) arrange for the housing in the Building of the various divisions of the Department including the Crime Laboratory and arrange for the housing of other agencies and of other tenants to the extent that space and facilities may not be needed by the Department from time to time and with reference to other agencies and other tenants to rent, lease or otherwise make available space and facilities upon such terms and conditions and for such rentals and charges, if any, as the State Building Services may determine;

(c) construct or cause to be constructed parking facilities to serve the Building;

(d) obtain the necessary funds for accomplishing its powers, purposes, and authorities from any source or sources, including, without limitation, the proceeds of revenue bonds issued hereunder, funds appropriated and made available under Act No. 716, and funds, if any appropriated for the Building;

(e) purchase, lease, or rent, and received bequests or donations of, or otherwise acquire, sell, trade, or barter, any property, (real, personal or mixed) and convert such property into money and/or other property;

(f) contract and be contracted with;

(g) apply for, receive, accept, and use any monies and property from the Government of the United States of America, any agency, any State or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual;

(h) invest and reinvest any of its monies (in securities selected by the State Building Services);

(i) take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes, and authorities set forth in this Act and to carry out the intent of this Act.

The powers, purposes, and authorities set forth herein shall be carried out in accordance with the duly promulgated policies of the State Building Services Council, under and pursuant to Act No. 716.

SECTION 4. The Department of Public Safety Building shall house the Department including the Crime Laboratory or such facilities and Division thereof as space and facilities will permit from time to time. In addition, to the extent that space and facilities are not at any time

needed by the Department, the Building may house such other agencies and other tenants as the State Building Services shall determine.

SECTION 5. (a) The State Building Services is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, and to use the proceeds thereof for defraying the costs of accomplishing all or part of the powers, purposes, and authorities set forth in this Act, paying all incidental expenses in connection therewith, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the State Building Services deems such desirable, and making provision for the payment of interest on the bonds during and for up to one (1) year after construction, if the State Building Services deems such desirable. Bonds outstanding under this Act shall not exceed Six Million Five Hundred Thousand Dollars (\$6,500,000) in principal amount.

(b) The bonds shall be authorized by the resolution of the State Building Services Council ("authorizing resolution"). The bonds may be coupon bonds payable to bearer, or may be registrable as to principal only or as to principal and interest, may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, provided that no bond may bear interest at a rate exceeding ten percent (10%) per annum, may be payable at such place or places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the State Building Services shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth above. The authorizing resolution may contain any other terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and of the holders and registered owners of the bonds.

The authorizing resolution may provide for the execution by the State Building Services with a bank or trust company within or without the State of Arkansas of a trust indenture. The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds, and the nature of the lien and pledge (parity or priority) in that event, the custody and

application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and of the holders and registered owners of the bonds.

(c) The bonds shall be sold at public sale on sealed bids, and notice of the sale shall be published once in a newspaper published in the City of Little Rock, Arkansas, having a general circulation throughout the State of Arkansas, at least twenty (20) days prior to the date of sale, and may be published in such other publications as the State Building Services may determine. The bonds may be sold at such price as the State Building Services may accept, including sale at a discount, but in no event shall any bid be accepted which results in a net interest cost (determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting any premium or adding the amount of any discount) in excess of the interest cost computed at par for bonds bearing interest at the rate of ten percent (10%) per annum. The award, if made, shall be to the bidder whose bid results in the lowest net interest cost.

(d) The bonds shall be executed by the manual or facsimile signatures of the Chairman and Secretary of the State Building Services Council, provided that one of such signatures must be manual. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Council. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signature shall, nevertheless, be valid and sufficient for all purposes. The State Building Services shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the State Building Services.

(e) There may be issued separate bonds hereunder and separate series within each issue. In any event, the authorizing resolution shall specify the amount of revenues derived from motor vehicle inspection fees identified in subsection (a) of Section 7 to be pledged for the security and payment of bonds authorized hereby.

SECTION 6. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act, that the bonds shall be obligations only of the State Building Services, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (within the meaning of Amendment No. 20 to the Constitution of the State of Arkansas) are pledged, and that they are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas. No member of the State Building Services Council shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act, unless he shall have acted with a corrupt intent.

(b) The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the pledged revenues, defined in Section 7 hereof. The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provision for the use of surplus revenues, if any, for other lawful purposes.

SECTION 7. (a) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this Act shall be secured solely by a lien on and pledge of:

(1) all revenue derived from a fee of forty-one cents (\$.41), hereby fixed and levied as an allocation of each fee for the inspection of any motor vehicle pursuant to Act 638 of 1967, as amended, or pursuant to any similar law, provided that the authorizing resolution shall designate the amount of each fee pledged to the bond issued pursuant to said resolution, and

(2) the gross revenues, if any, derived from the leasing or renting to other agencies or other tenants of space in the Building, the pledging of such revenues (collectively the "pledged revenues") being hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this Act. Commencing the first day of the month next succeeding the issuance of bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation but, as and when received (by the Department, by the State Building Services, or by any other State agency, as the case maybe) shall be deposited in a bank or banks selected by the State Building Services, to the credit of funds designated the "Department of Public Safety Building Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all monies in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this Section 7 is intended to prohibit the State Building Services from investing monies received hereunder, as provided in this Act.

(b) The State Building Services may use any of the pledged revenues prior to the issuance of any bonds hereunder for defraying costs of accomplishing the powers, purposes, and authorities set forth in this Act.

(c) So long as there are outstanding any bonds issued under this Act, the General Assembly may eliminate or change the fees for the inspection of motor vehicles, under Act No. 638 of 1967, or any subsequent similar law, but only on condition that there is always

maintained in effect and made available for the payment of outstanding bonds sources of revenue which produce revenues at least sufficient in amount to provide for the payment when due of the principal of, premium, if any, interest on, and trustee's and paying agent's fees in connection with the outstanding bonds and to comply with all covenants (including, without limitation, the maintenance of funds and revenues) in favor of the holders or registered owners of such outstanding bonds.

SECTION 8. Any authorizing resolution and trust indentures shall, together with this Act, constitute a contract between the State Building Services and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the State Building Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

(1) that, to the full extent possible, it will continuously operate the building as a revenue-producing undertaking, including the maintenance of occupancy and use of facilities and space so as to avoid any impairment of the security for the bonds; and

(2) that, to the full extent possible, it will always charge, impose and collect sufficient revenues (including, without limitation, rentals) to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and funds.

SECTION 9. It has been found by the General Assembly of the State of Arkansas that adequate housing for the Department of Public Safety is essential to the proper administration of any motor vehicle safety inspection program and to motor vehicle and highway safety generally.

SECTION 10. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all State, county, and municipal taxes, except property taxes, and the exemption shall include income, inheritance, and estate taxes.

SECTION 11. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the firemen's relief and pension fund, and the policemen's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, and bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 12. The State Building Services is hereby authorized to employ architects to prepare plans, specifications, and estimates of cost

for the construction of the Building and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction of the Building in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage and pay such professional, technical, and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this Act.

SECTION 13. The State Building Services shall include necessary provisions in the authorizing resolution or trust indenture to require the deposit of the proceeds of the bonds, or any series thereof (except amounts for interest or reserves, which may be deposited in the Bond Fund) into a special Construction Fund ("Construction Fund") which shall be a trust fund in such depository as the State Building Services shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation, and all monies in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested in securities specified by the State Building Services. The monies in the Construction Fund shall be used solely for the powers, purposes, and authorities set forth in this Act.

SECTION 14. Bonds may be issued for the purpose of refunding any bonds issued under this Act. Refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or authorized investments for the retirement of the bonds being refunded, as shall be specified by the State Building Services in the authorizing resolution or trust indenture securing the refunding bonds and subject to compliance with the provisions of the authorizing resolution or trust indenture securing the bonds being refunded. The authorizing resolution or trust indentures securing the refunding bonds may provide that the refunding bonds shall have the same priority of pledge as was enjoyed by the bonds refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this Act pertaining to the sale and security of bonds.

SECTION 15. This Act shall not create any right in any bondholder for bonds issued pursuant to this Act, and no right for such bondholder shall arise under it, until bonds authorized by this Act (or the initial issue or series) shall have been sold and delivered by the State Building Services.

SECTION 16. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

SECTION 17. The provisions of this Act are hereby declared to be

severable. If any provision of this Act shall be held invalid or inapplicable to any person, firm or circumstance, such invalidity or inapplicability shall not effect the validity or inapplicability of the remainder of the Act.

SECTION 18. This Act shall be complete and sole authority for the accomplishment of the purposes hereof. To the extent that there is a conflict between the provisions of this Act and Act No. 716, the provisions of this Act shall govern. All laws and parts of laws in conflict herewith, except Act No. 716, are hereby repealed to the extent of such conflict.

SECTION 19. The General Assembly hereby finds and declares the present facilities for the housing of the Department of Public Safety are not adequate and that there is an urgent need that the Building be constructed in order that the Department may continue to carry out its responsibilities. Therefore, an emergency is declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be effective upon its passage and approval. APPROVED: March 18, 1977.

5. ARKANSAS STATE EDUCATION BUILDING EXPANSION ACT — ACTS 1977, No. 554.

SECTION 1. This Act may be referred to and cited as the "Arkansas State Education Building Expansion Act."

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

"Agency" or "state agency" means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

"Board" means the State Board of Education of the State of Arkansas.

"Bonds" means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

"1969 Bonds" means the State Board of Education of the State of Arkansas Building Revenue Bonds, dated March 1, 1969, authorized by and issued under Act No. 18 of the First Extraordinary Session of the Sixty-Sixth General Assembly of the State of Arkansas, approved February 15, 1968.

"Building" means the State Education Building, located on the State Capitol Grounds, including the structure known as the Arch Ford Education Building. The Building also includes the Expansion.

"Construct" means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the Board shall determine to be necessary or desirable to accomplish the powers, purposes and authorities set forth in this Act in accordance with Act No. 716 of 1975 as and to the extent applicable.

“Division” means any division, bureau, section, office or officer of the Department.

“Department” means the Department of Education of the State of Arkansas.

“Expansion” means any additions, extensions, or improvements to the Building and may include parking facilities to serve the Building and any necessary or appropriate remodeling and improvements to the present Building and its facilities, with appropriate equipment and furnishings, all as determined by the Board.

“Pledged revenues” means all revenues authorized by Section 7 of this Act to be pledged for the security and payment of the bonds.

SECTION 3. In addition to the powers, purposes and authorities set forth elsewhere in this Act, the Board is hereby authorized and empowered to:

(a) Construct an Expansion to the Building on a site or sites selected by the Board. In this regard, the appropriate agency in charge of the lands upon which a site may be selected is hereby authorized and directed to negotiate with the Board and to make available to the Board such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of other state agencies.

(b) Arrange for the housing of the various divisions of the Department, other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals and charges, if any, as the Board may determine.

(c) Construct or cause to be constructed parking facilities to serve the Building, including the Expansion, and other agencies and the public having business therein.

(d) Obtain the necessary funds for accomplishing its powers, purposes and authorities.

(e) Purchase, lease or rent and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property, (real, personal or mixed) and convert into money and/or other property any property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1969 Bond.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys and property from the Government of the United States of America, any agency, any state or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual.

(i) Invest and reinvest any of its moneys (in securities selected by the Board).

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes and authorities set forth in this Act and to carry out the intent of this Act.

The powers, purposes and authorities set forth herein shall be carried

out in accordance with the duly promulgated policies of the State Building Services Council, under and pursuant to Act No. 716 of 1975.

SECTION 4. The Building, including after its completion the Expansion, shall house the Department or such facilities and divisions thereof as the Board shall determine. In addition, the Building and the Expansion may house such agencies and others as space and facilities will permit from time to time, as determined by the Board.

SECTION 5. (a) The Board is hereby authorized and empowered to issue bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any other available funds, for financing the costs of constructing the Expansion, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of bonds, the creation and maintenance of reserves to secure the payment of the bonds, if the Board deems it necessary or desirable, and the payment of interest on the bonds, if necessary or desirable, until sufficient funds are available therefor out of pledged revenues.

(b) The bonds shall be authorized by resolution of the Board. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may contain such exchange provisions; may be in such form and denomination; may have such date or dates; may be stated to mature at such time or times; may bear interest payable at such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding 10% per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such times and at such prices; and may contain such other terms and conditions, all as the Board shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership as set forth above. The authorizing resolution may contain any terms, covenants and conditions that are deemed necessary or desirable by the Board, including without limitation, those pertaining to the creation and maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the rights, duties and obligations of the Board and of the holders and registered owners of the bonds, all as the Board shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing the terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of this sale shall be published in such publication within and/or without the State of Arkansas for such time or times, and information pertaining to the Board and the bonds shall be prepared and distributed in such form and manner and to such prospective purchasers as the Board shall determine to be best designed to obtain the most

favorable bidding. The bonds may be sold at such price as the Board may accept, but in no event shall any bid be accepted which results in an interest rate in excess of 10% per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate bid and deducting the amount of any premium and adding the amount of any discount. The Board of Trustees of the Arkansas Teacher Retirement System is hereby authorized to enter a bid for the bonds and is hereby authorized, in the event that no bid should be received for the bonds, to negotiate for and purchase the bonds from the Board.

(d) Bonds outstanding hereunder shall not exceed \$1,200,000 in principal amount (except as set forth in Section 13 hereof).

(e) Bonds issued hereunder shall be executed by the Chairman of the Board and the Secretary of the Board (by manual or facsimile signatures with at least one manual signature). The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each bond shall be sealed with the seal of the Board.

SECTION 6. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Board, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No. 20 to the Constitution of the State of Arkansas) are pledged. The bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Board shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the powers, purposes or authorities of this Act unless he shall have acted with a corrupt intent.

SECTION 7. (a) The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of all or any part of:

(1) all interest received on revolving loan bonds and revolving loan certificates of indebtedness held in the (Permanent School) Revolving Loan Fund, pursuant to Act No. 384 of 1953, as amended, or any similar law (the revolving loan obligations),

(2) the gross revenues derived from the leasing or renting of space in the Building, and

(3) revenues derived from or attributable to the use of space in the Building, to the extent that such revenues may be pledged (collectively the "pledged revenues"). Such pledged revenues are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act.

The pledged revenues shall be deposited in a trust fund in the State Treasury designated the "State Board of Education Building Expansion Revenue Bond Fund", to be appropriated and applied solely to the payment of the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds and for the creation and maintenance of reserves as specified by the authorizing resolution or trust indenture (the "debt service requirements"), except that moneys may be withdrawn pursuant to the provisions hereinbelow. In the event, however, that at any time while the bonds are outstanding, the General Assembly should fail, prior to June 1 of any odd-numbered year, to appropriate, for the ensuing biennium, all of the pledged revenues to payment of the debt service requirements of the bonds (as set forth in detail in the authorizing resolution or trust indenture), the pledged revenues shall, commencing fifteen days after such June 1, be deposited by the Board, as and when received by the Board, in a bank or banks selected by the Board, and not in the State Treasury, and shall thereupon and thereafter be so deposited, as a trust fund, and applied to payment of the debt service requirements on the bonds (except as set forth hereinbelow). As used in this Act the term "Bond Fund" shall refer and include the Treasury Fund and any other (non-treasury) fund established under this Section 7.

The authorizing resolution or trust indenture may provide that, as and to the extent not required for paying the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds, or for making deposits to required reserves, moneys shall be released from the pledged revenues and withdrawn from the Bond Fund, for deposit in a special account or accounts of the Board, and used for the purpose of paying costs of operation and maintenance of the Building.

(b) So long as any of the bonds are outstanding, the Treasurer of State shall be authorized and directed to invest (in securities selected by the Treasurer) moneys at any time held in the (permanent school) Revolving Loan Fund as may be necessary to provide for payment of the debt service requirements.

(c) Subject to any covenants and pledges in connection with any outstanding 1969 Bonds, the Board may, if it so desires, use any of the pledged revenues in the Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of accomplishing the powers, purposes and authorities of the Board under this Act. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund. The Board is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Board), and all income derived from such investments shall be and become a part of the Bond Fund.

(d) Notwithstanding any provision of this Act, nothing herein shall be construed to authorize the pledging or assignment of any revolving loan bonds or revolving loan certificates of indebtedness now or hereafter pledged to secure payment of any of the Board's Arkansas State Board of Education Consolidated Revolving Loan Bonds issued under the authority of Act No. 59 of 1973, or any similar law hereafter enacted, or Certificates of Indebtedness issued by the Board under the authority of Act No. 479 of 1967, or any similar law.

(e) The Board may require that there be delivered to the Board in connection with the acquisition of all revolving loan obligations a copy of the resolution of the board of directors of the issuing school district authorizing the pledged securities, together with a certificate executed by the president and secretary of the board of directors certifying that the action necessary for the valid authorization and issuance of the revolving loan obligations has been duly taken, setting forth a description of such action, and, in the case of revolving loan obligations secured in whole or in part by a pledge of collections of an ad valorem tax, accompanied by a certificate executed by the county clerk or county clerks of the county or counties in which the issuing school district is located certifying that such tax has been or will be extended for collection and setting out the year in which such collection commenced or will commence. Upon delivery to the Board of such resolution and certificate (or certificates, as the case may be) the revolving loan obligations covered thereby shall be conclusively deemed to be valid, and the validity of such revolving loan obligations shall not thereafter be subject to challenge on any ground. The Board may prescribe the form of the resolution and certificates provided for in this subsection (e).

SECTION 8. All state agencies are hereby expressly authorized to execute and enter into agreements with the Board for leasing or renting of space in the Building when there is space therein over and above the requirements of the Department and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Board and the state agency involved to be appropriate and in the best interest of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor performing the functions exercised by the state agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 9. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the Board and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of

the Board may be enforced by mandamus or other appropriate proceedings at law or in equity.

SECTION 10. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 11. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the fireman's relief and pension fund and the policeman's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, and bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 12. The Board is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the Expansion and to supervise and inspect such construction. In addition, the Board is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the powers, purposes and authorities conferred and set forth in this Act.

SECTION 13. (a) Unless refunded as hereinafter authorized, the 1969 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the pledged revenues, and nothing herein shall be construed as impairing their security as provided in the resolution of the Board securing the 1969 Bond.

(b) The Board is hereby authorized, in its discretion, to refund and discharge the outstanding 1969 Bonds, as hereinafter provided. If the Board determines so to proceed, the necessary additional principal amount of bonds to accomplish the refunding shall be issued and proceeds thereof shall be applied by the Board to the payment and redemption (principal, premiums, if any, interest, and fees and expenses) of all of the outstanding 1969 Bonds. Pending surrender of the 1969 Bonds, the necessary moneys shall be deposited in trust in the bond fund established pursuant to the provisions of the resolution authorizing the 1969 Bonds (the "1969 bond fund"). The Board shall invest, or authorize the investment of, the moneys in the 1969 bond fund to the full extent feasible, as determined by the Board, in direct or fully guaranteed obligations of the United States of America. All moneys in the 1969 bond fund shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment and redemption of the 1969 Bonds. Upon deposit in the 1969 bond fund of the moneys provided for herein, the 1969 Bonds shall be deemed to be paid and discharged.

(c) The Board shall include necessary provisions in the authorizing

resolution for the bonds issued under this Act, or in the trust indenture, for deposit of the proceeds of the bonds (other than amounts for interest or reserves which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to the provisions of subsection (b) of this Section) into a special Construction Fund (the “Construction Fund”) which shall be a trust fund maintained in such depository as the Board shall designate. The moneys in the Construction Fund shall be used to carry out the powers, purposes and authorities of the Board specified in this Act. The Board shall include appropriate provisions in the authorizing resolution or trust indenture governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Board to be appropriate and as shall be specified in the authorizing resolution or trust indenture).

SECTION 14. There is hereby appropriated, to the Construction Fund, for the purpose of paying the costs of construction of the Expansion and other expenses incidental thereto the following:

- (1) the proceeds of the bonds, as set forth herein, not to exceed the sum of \$ 1,200,000;
- (2) any balance remaining in the 1969 bond fund, after payment and redemption of the 1969 Bonds, not to exceed the sum of . \$ 500,000; and
- (3) any unobligated balance remaining in the FED — National Defense Education Fund, not to exceed the sum of \$ 34,906.66.

SECTION 15. Upon the refunding of the 1969 Bonds as authorized by Section 3 hereof, the following shall be repealed and of no further force and effect: (1) Act No. 443 of 1963; (2) Act No. 18 of the First Extraordinary Session of the Sixty-Sixth General Assembly of the State of Arkansas, approved February 15, 1968; (3) Section 13 (a) of Act No. 384 of 1953, as amended.

SECTION 16. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

SECTION 17. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Board.

SECTION 18. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of the Act.

SECTION 19. All laws and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 20. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law, to the detriment of the public health and safety, and that only by the

immediate operation of this Act can these conditions be bettered. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval.

6. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING EXPANSION ACT — ACTS 1977, No. 686, AS AMENDED BY ACTS 1997, No. 250.

SECTION 1. This Act may be referred to and cited as the “Arkansas State Department of Health Building Expansion Act.”

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

“Act No. 469” means Act No. 469 of 1965.

“Agency” or “state agency” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

“Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

“1966 Bonds” means the Arkansas State Department of Health Building Commission Revenue Bonds, dated December 1, 1966, authorized by and issued under Act No. 469.

“Building” means the State Department of Health Building constructed and financed under the provisions of Act No. 469, including the Expansion.

“Commission” means the Arkansas State Department of Health Building Commission, established by Act No. 469.

“Construct” means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory or technical nature by such method as the Commission shall determine to be necessary or desirable to accomplish the power, purposes and authorities set forth in this Act and without regard to the provisions of other laws pertaining to the construction and acquisition of property by state agencies. The term “construct” also includes payment or provision for expenses incidental thereto.

“Division” means any division, bureau, section, office or officer of the Department of Health.

“Expansion” means any additions, extensions, or improvements to the Building and may include any necessary or appropriate remodeling and improvements to the present Building and its facilities, with appropriate equipment and furnishings, all as determined by the Commission.

“Fees” means the fees confirmed, ratified, fixed and imposed by this Act, as set forth in Section 6 of this Act.

“Fee revenues” means all revenues derived from the fees.

“Pledged revenues” means all revenues authorized by Section 9 of this Act to be pledged for the security and payment of the bonds, being fee revenues and gross revenues derived from the leasing or rental of space.

SECTION 3. In addition to the powers, purposes and authorities set forth elsewhere in this Act, the Arkansas State Department of Health Building Commission is hereby authorized and empowered to:

(a) Construct an Expansion to the State Department of Health Building, on a site or sites selected by the Commission. In this regard, the appropriate state agency in charge of the lands upon which a site may be selected is hereby authorized and directed to negotiate with the Commission and to make available to the Commission such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of the particular agency or of other state agencies.

(b) Arrange for the housing of the various divisions of the Department of Health and such other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals and charges, if any, as the Commission may determine.

(c) Construct or cause to be constructed parking facilities to serve the Building, the Expansion and other agencies and the public having business therein.

(d) Obtain the necessary funds for accomplishing its powers, purposes and authorities.

(e) Purchase, lease or rent and receive bequests or donations of or otherwise acquire, and sell, trade, or barter, any property, (real, personal or mixed) and convert into money and/or other property any property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1966 Bonds.

(g) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(h) Contract and be contracted with.

(i) Apply for, receive, accept and use any moneys and property from the Government of the United States of America, any state agency, any state or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual.

(j) Invest and reinvest any of its moneys (in securities selected by the Commission).

(k) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes and authorities set forth in this Act and to carry out the intent of this Act.

SECTION 4. (a) In addition to the powers, purposes and authorities conferred by this Act, the powers conferred by and the provisions contained in Act No. 469 except as they may be inconsistent with any of the provisions of this Act, are hereby confirmed, continued, ratified and

reenacted, including without limitation the provisions of Act No. 469 pertaining to organization of the Commission, and meetings of the Commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

(b) This Act shall constitute the sole authority necessary to accomplish the powers, purposes and authorities set forth herein. The powers, purposes and authorities set forth in this Act may be exercised by or on behalf of the Commission without necessity for the approval of any other agency of the State of Arkansas and without compliance with any other act or law pertaining to such powers, purposes or authorities.

SECTION 5. The Building, including after its completion the Expansion, shall house the Department of Health or such facilities and divisions thereof as the Department of Health shall determine. In addition, the Building and the Expansion may house such others as space and facilities will permit from time to time, as determined by the Commission.

SECTION 6. (a) The fees prescribed in Section 10 of Act 469 (as, in some cases, described in detail in the Vital Statistics Act of 1965, Act No. 471 of 1965, as amended) as now existing or as hereafter amended, are hereby confirmed, ratified, fixed and imposed.

(b) All fee revenues are hereby declared to be cash funds, and shall not be deposited in the Treasury, except as set forth in this Act, but shall be deposited in a bank or banks selected by the Commission. The fee revenues shall be collected and applied as in this Act provided until the principal of, premiums, if any, and interest on all bonds issued under this Act, with trustee's and paying agent's fees, shall be paid or adequate provision made for their payment; provided, however, particular fees may be varied as to amount or new fees substituted or added so long as there is no reduction in gross fee revenues that would have been collected had there been no such change, substitution or addition, and the term "fee revenues" includes the revenues derived from all such fees.

SECTION 7. (a) The Commission is hereby authorized and empowered to issue bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any available funds, for financing the costs of constructing the Expansion, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the bonds, the creation and maintenance of reserves to secure the payment of the bonds, if the Commission deems it necessary or desirable, and for providing for the payment of interest on the bonds, if necessary or desirable, until sufficient funds are available therefor out of pledged revenues.

(b) The bonds shall be authorized by resolution of the Commission. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may contain such exchange provisions, may be in such form and denomination; may have such date or dates; may be stated to mature at such time or times; may bear interest payable at

such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding 10% per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such times and at such prices; and may contain such other terms and conditions, all as the Commission shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership as set forth above. The authorizing resolution may contain any terms, covenants and conditions that are deemed necessary or desirable by the Commission, including without limitation, those pertaining to the creation and maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the rights, duties and obligations of the Commission and of the holders and registered owners of the bonds, all as the Commission shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing the terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published in such publications within and/or without the State of Arkansas for such time or times, and information pertaining to the Act, the Commission and the bonds shall be prepared and distributed in such form and manner as to such prospective purchasers as the Commission shall determine to be best designed to obtain the most favorable bidding. The bonds may be sold at such price as the Commission may accept, but in no event shall any bid be accepted which results in an interest rate in excess of 10% per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate bid and deducting the amount of any premium and adding the amount of any discount.

(d) Bonds outstanding hereunder shall not exceed \$6,000,000 in principal amount.

(e) Bonds issued hereunder shall be executed by the Chairman of the Commission and the Secretary of the Commission (by manual or facsimile signatures with at least one manual signature). The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each bond shall be sealed with the seal of the Commission.

SECTION 8. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Commission, and in no event

shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No. 20 of the Constitution of the State of Arkansas) are pledged. The bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Commission shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the powers, purposes or authorities of this Act unless he shall have acted with a corrupt intent.

SECTION 9. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of the fee revenues and the gross revenues derived from the leasing or renting to others of space in the Building (collectively the "pledged revenues") and such pledged revenues are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act. There is hereby created a fund designated "State Department of Health Building Expansion Revenue Bond Fund" (the "Bond Fund") to be maintained at such depository as shall be specified by the Commission, which fund shall be a trust fund, and after the issuance of any bonds hereunder moneys therein shall be applied solely for the payment of the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds at maturity and at redemption prior to maturity, except moneys that are withdrawn therefrom pursuant to the subsequent provisions hereof, all as shall be specified and subject to the terms and conditions set forth in the authorizing resolution or trust indenture. The pledged revenues shall not be deposited into the State Treasury, but, as and when received, shall be deposited into the Bond Fund. On March 1, June 1, September 1 and December 1 of each year, if not required for paying the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds, or for making deposits to required reserves, there shall be released from the pledged revenues and withdrawn from the Bond Fund and deposited, as a special revenue to the credit of the Public Health Fund in the State Treasury, that amount of the pledged revenues equaling the sum of the following:

(a) One-half of the revenues derived from the fee described in Section 10(a)(3) of Act No. 469;

(b) One-fourth of the revenues derived from the fee described in Section 10(a)(5) of Act No. 469;

(c) One-half of the revenues derived from the fee described in Section 10(a)(6) of Act No. 469;

(d) One-half of the revenues derived from the fee described in Section 10(a)(8) of Act No. 469;

(e) One-fourth of the revenues derived from the fee described in Section 10(a)(9) of Act No. 469.

Subject to any covenants any pledges in connection with any outstanding 1966 Bonds, the Commission may, if it so desires, use any

of the pledged revenues in the Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of accomplishing the powers, purposes and authorities of the Commission under this Act. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund. The Commission is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Commission), and all income derived from such investments shall be and become a part of the Bond Fund.

SECTION 10. All agencies are hereby expressly authorized to execute and enter into agreements with the Commission for the leasing or renting of space in the Building when there is space therein over and above the requirements of the Department of Health and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the agency involved to be appropriate and in the best interest of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency performing the functions exercised by the agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 11. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the Commission and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other appropriate proceedings at law or in equity.

SECTION 12. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 13. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the fireman's relief and pension fund and the policeman's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, shall be eligible to secure the deposit of public funds.

SECTION 14. The Commission is hereby authorized to employ an

architect to prepare plans, specifications and estimates of cost for the construction of the Expansion and to supervise and inspect such construction. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the powers, purposes and authorities conferred and set forth in this Act.

SECTION 15. (a) Unless refunded or defeased as hereinafter authorized, the 1966 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the fee revenues, and nothing herein shall be construed as impairing their security as authorized by Act No. 469 and as provided in the resolution of the Commission securing the 1966 Bonds.

(b) Subject to the above, the Commission is hereby authorized, in its discretion, to refund or defease the outstanding 1966 Bonds, as hereinafter provided, in which event the moneys, if any, in the construction fund established pursuant to the resolution authorizing the 1966 Bonds shall be transferred to the Construction Fund established pursuant to the provisions of this Act and the moneys in the bond fund established pursuant to the provisions of the resolution authorizing the 1966 Bonds (the "1966 Bond Fund") shall be transferred to the Bond Fund established pursuant to the provisions of this Act. If the Commission determines so to proceed, the necessary additional principal amount of bonds to accomplish the refunding or defeasing shall be issued and proceeds thereof shall be applied by the Commission to the payment (principal, premiums, if any, interest and fees and expenses) of all of the outstanding 1966 Bonds at maturity or earlier redemption (as the Commission shall determine). The necessary moneys shall be deposited in trust in the bond fund established pursuant to the provisions of the resolution authorizing the 1966 Bonds. The Commission shall invest, or authorize the investment of, the moneys in the 1966 Bond Fund to the full extent feasible, as determined by the Commission, in direct or fully guaranteed obligations of the United States of America. All moneys in the 1966 Bond Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment of the 1966 Bonds. Upon deposit in the 1966 Bond Fund of the moneys provided for herein, the 1966 Bonds shall be deemed to be paid, defeased and retired.

(c) The Commission shall include necessary provisions in the authorizing resolution for the bonds issued under this Act, or in the trust indenture, for deposit of the proceeds of the bonds (other than accrued interest which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to the provisions of subsection (b) of this Section 15) into a special Construction Fund (the "Construction Fund") which shall be a trust fund maintained in such depository as the Commission shall designate. The moneys in the Construction Fund

shall be used to carry out the powers, purposes and authorities of the Commission specified in this Act. The Commission shall include appropriate provisions in the resolution or trust indenture authorizing and securing the bonds governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Commission to be appropriate and as shall be specified in the authorizing resolution of trust indenture).

SECTION 16. In the event of the refunding or defeasing of the 1966 Bonds as authorized by Section 15 hereof, Sections 11, 13 and 20 of Act No. 469 shall be repealed and of no further force and effect.

SECTION 17. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 18. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Commission.

SECTION 19. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of the Act.

SECTION 20. All laws and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 21. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department of Health and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law and required for the proper care of the public health of the inhabitants of the State, to the detriment of the public health and safety, and that only by the immediate operation of this Act can these conditions be bettered. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval.

7. ARKANSAS REVENUE DEPARTMENT BUILDING EXPANSION ACTS — ACTS 1977, No. 749, AS AMENDED BY ACTS 1997, No. 250.

SECTION 1. This Act may be referred to and cited as the “Arkansas Revenue Department Building Expansion Act.”

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

(a) “Act No. 38” means Act No. 38 of the First Extraordinary Session of the Sixty-Fourth General Assembly of the State of Arkansas, approved September 8, 1961, as amended.

(b) “Agency” or “Agencies” means any agency, board, officer, commis-

sion, department, division or institution of the State of Arkansas.

(c) "Bonds" means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

(d) "1965 Bonds" means the Arkansas Revenue Department Building Commission Revenue Bonds, dated October 1, 1965, authorized by and issued under Act No. 38.

(e) "Building" means the Revenue Department Building constructed and financed under the provisions of Act No. 38.

(f) "Commission" means the Arkansas Revenue Department Building Commission, established by Act No. 38.

(g) "Construct" means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the Commission shall determine to be necessary or desirable to accomplish the authorities, powers and purposes set forth in this Act. This Act shall be the sole authority needed and it shall not be necessary to comply with other laws pertaining to the acquiring, constructing and equipping of public buildings.

(h) "Department" means the Department of Finance and Administration of the State of Arkansas, or any successor or agencies.

(i) "Divisions" means any division, bureau, section, or office of the Department.

(j) "Expansion" means additions, extensions, or improvements to the Building, appropriate remodeling of and improvements to the present Building, and appropriate equipment and furnishings, all as determined by the Commission.

(k) "Fee Revenues" means all revenues derived from the Fees.

(l) "Fees" means the fees confirmed, fixed, ratified, and imposed by this Act.

(m) "Pledged Revenues" means all revenues authorized by Section 10 of this Act to be pledged for the security and payment of the Bonds, being Fee Revenues and gross revenues derived from leasing or rental of space.

SECTION 3. In addition to authorities, powers and purposes set forth in this Act, the Arkansas Revenue Department Building Commission is hereby authorized and empowered to:

(a) Construct the Expansion.

(b) Arrange for the housing of various Divisions of the Department and other Agencies as space and facilities may permit from time to time and with reference to other Agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rents and charges, if any, as the Commission may determine.

(c) Construct parking facilities.

(d) Obtain the necessary funds for accomplishing its authorities, powers and purposes.

(e) Purchase, lease or rent and receive bequests or donations of, or

otherwise acquire and sell, trade or barter, any property (real, personal or mixed) and convert into money and/or other property and property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1965 Bonds.

(g) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(h) Contract and be contracted with.

(i) Apply for, receive, accept and use any moneys and property from the Government of the United States or of any state, political subdivision or agency or from any public or private corporation, agency or organization of any nature, or from any individual.

(j) Invest and reinvest any of its moneys (in securities selected by the Commission).

(k) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities, powers and purposes conferred by this Act and to carry out the intent of this Act.

SECTION 4. (a) In addition to the authorities, powers and purposes conferred by this Act, the authorities, powers and purposes conferred by, and the provisions of Act No. 38, except as they may be inconsistent with any of the provisions of this Act, are hereby confirmed, ratified, continued and reenacted, including, without limitation, the provisions of Act No. 38 pertaining to organization of the Commission, and meetings of the Commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code § 25-16-901 et seq.

(b) This Act shall constitute the sole authority necessary for the accomplishment of the authorities, powers and purposes of this Act. The authorities, powers and purposes of this Act may be exercised by or on behalf of the Commission without necessity of approval by any other branch, department, agency, or officer of the State of Arkansas, and without compliance with any other act or law pertaining to such authorities, powers and purposes.

SECTION 5. The Building and the Expansion, after its completion, shall house all or such part of the Department as the Commission shall determine. In addition, the Building and Expansion may house such other Agencies as space and facilities will permit from time to time, as determined by the Commission.

SECTION 6. (a) The following fees and charges fixed and imposed by Section 83 of Act No. 142 of 1949, as amended by Act No. 493 of 1965 (and referred to in Section 10 of this Act) are hereby confirmed, ratified, fixed and imposed:

- (1) For each certificate of title, \$1.00
- (2) For each duplicate certificate of title, \$1.00
- (3) For noting each lien, \$0.50
- (4) For transfer of registration, \$1.00
- (5) For duplicate or substitute registration certificate, \$1.00
- (6) For duplicate or substitute registration plate, \$1.00

(b) Fee Revenues are hereby declared to be cash funds, and shall not be deposited in the Treasury, but shall be deposited in a bank or banks, as determined by the Commission. The Fee Revenues shall be collected and applied as in the Act provided until the principal of, premiums, if any, and interest on all Bonds issued under this Act shall be paid or the required provision made for their payment; provided, however, particular Fees may be varied as to amount or new Fees substituted or added so long as there is no reduction in gross Fee Revenues that would have been collected had there been no such change, substitution or addition, and the term "Fee Revenues" includes the revenues derived from all such Fees.

SECTION 7. (a) There is hereby created a trust fund which shall be designated "Revenue Department Building Expansion Fund" (the "Building Fund") which shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. Commencing on the date of the issuance of Bonds under this Act, there shall be deposited into the Building Fund all moneys received by the Commission from any other source whatever, including, without limitation, Fee Revenues and revenues derived from leasing or renting of space in the Building.

(b) All moneys in the Building Fund shall be used solely, and in the order of priority, as follows:

(1) Beginning on the first day of the month immediately following the month within which Bonds are issued under this Act, and continuing on the first day of each month thereafter until the principal of, premiums, if any, and interest on all Bonds issued under this Act are paid, or the required provision made for their payment, there shall be transferred from the Building Fund and deposited in a trust fund which is hereby created and designated "Revenue Department Building Expansion Bond Fund" (the "Bond Fund") a sum equal to at least one-sixth ($\frac{1}{6}$) of the next installment of interest on and one-twelfth ($\frac{1}{12}$) of the next installment of principal (or Sinking Fund Payment in the case of term Bonds) of all outstanding Bonds and the amounts necessary to provide for trustee's and paying agent's fees, plus such additional amounts, if any, as shall be required to insure that on the next interest paying date and the next principal (or Sinking Fund) paying date there will be sufficient funds in the Bond Fund to pay principal, premiums, if any, and interest then due and plus such additional amounts, if any, as shall be necessary to establish over such period of time and maintain a debt service reserve in the Bond Fund (if the Commission deems it desirable to provide for such reserve) in such amount as the Commission may determine; provided, however, the required deposits for principal need not start until twelve (12) months prior to the first principal (or Sinking Fund) paying date. The Bond Fund shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. The moneys in the Bond Fund shall be used for no other purpose than to pay the principal of, premiums, if any, and interest on and trustee's and paying agent's fees in connection

with, all outstanding Bonds issued under this Act, at maturity or at redemption prior to maturity.

(2) If and so long as all deposits required by Section 7(b)(1) are properly made, and are fully current, then commencing on the first business day of the month during which deposits are required to be made into the Bond Fund pursuant to the provisions of Section 7(b)(1) and continuing on the first business day of each month thereafter as long as deposits into the Bond Fund are required to be made by the provisions hereof, there shall be withdrawn from the Building Fund and deposited in the State Treasury (and there credited to the Constitutional and Fiscal Agencies Fund) that portion of the moneys in the Building Fund not required to be deposited into the Bond Fund by the provisions of Section 7(b)(1) of this Act.

(c) After the principal of premiums, if any, and interest on all Bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund and in the Bond Fund and all moneys received from the Fees shall be deposited in the State Treasury, as a special revenue, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 8. (a) The Commission is hereby authorized and empowered to issue Bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any other available funds, for defraying the costs of Constructing the Expansion together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the Bonds, the creation of all or any part of a debt service reserve, if the Commission deems such a reserve desirable, and for providing for the payment of interest on the Bonds during the Construction and for up to six (6) months thereafter, if the Commission deems such desirable.

(b) The Bonds shall be authorized by resolution or resolutions of the Commission. The Bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may be in such form and denomination; may have such date or dates; may mature at such time or times; may bear interest payable at such times and at such rate or rates, provided that no Bonds may bear interest at a rate or rates exceeding ten percent (10%) per annum; may be made payable at such place or places, within or without the State of Arkansas; may be subject to redemption prior to maturity at such times, in such manner and at such prices; may contain such exchange privileges, and may contain such other terms and conditions; all as the Commission shall determine. Subject to provisions as to registration the Bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas. The authorizing resolution may contain any terms, covenants and conditions that are deemed desirable by the Commission, including, without limitation, those pertaining to the creation and maintenance of funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the

rights, duties and obligations of the Commission and of the holders and registered owners of the bonds, all as the Commission shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published in such publications, within or without the State of Arkansas, for such time or times, and information pertaining to the Act, the Commission and the Bonds and their security, shall be prepared and distributed in such form and manner and to such prospective purchasers as the Commission shall determine to be best designed to get the most favorable bidding. The Bonds may be sold at such price as the Commission may determine to accept, but in no event shall any bid be accepted which results in a net interest cost in excess of ten percent (10%) per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate or rates bid and deducting the amount of any premium and adding the amount of any discount.

(d) Bonds issued hereunder shall be executed by the Chairman and Secretary (manual or facsimile with one manual required) of the Commission. The coupons attached to the Bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such Bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each Bond shall be sealed with the seal of the Commission.

SECTION 9. It shall be plainly stated on the face of each Bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No. 20 of the Constitution of Arkansas) are pledged, and the Bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Commission shall be personally liable on the Bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the authorities, powers and purposes of this Act unless he shall have acted with a corrupt intent.

SECTION 10. The principal of premiums, if any, interest on, and trustee's and paying agent's fees in connection with all Bonds issued under this Act shall be secured solely by a lien on and pledge of the Fee Revenues and the gross revenues derived from the leasing or renting to others of space in the Building (collectively the "Pledged Revenues"), and such Pledged Revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this Act. The Pledged Revenues shall not be

deposited into the State Treasury, but as and when received, shall be deposited as set forth in and authorized by this Act.

Subject to the condition that there is no violation of the pledge or any covenant of the Commission pertaining to the Outstanding 1965 Bonds, the Commission may use any of the Pledged Revenues prior to the issuance of any Bonds hereunder for defraying costs of accomplishing the authorities, powers and purposes of the Commission under this Act. The principal of premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund.

The Commission is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Commission), and all income derived from such investments shall be and become a part of the Bond Fund.

SECTION 11. All Agencies are hereby expressly authorized to execute and enter into agreement with the Commission for the leasing or renting of space in the Building when there is space therein over and above the requirements of the Department and the Divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the Agency involved to be appropriate and in the best interests of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor Agency performing the functions exercised by the Agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 12. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the Commission and the holders and registered owners of the Bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other appropriate proceedings of law or in equity.

SECTION 13. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 14. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authority, respectively, of the Fireman's Relief and Pension Fund and the Policeman's Pension and Relief Fund of any municipality, or the governing authority of any retirement system

created by the General Assembly of the State of Arkansas, or any Agency, may, in its discretion, invest any of its funds not immediately needed for its purposes in Bonds issued under the provisions of this Act, and Bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 15. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the Construction of the Expansion and to supervise and inspect such Construction. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the authorities, powers and purposes conferred and imposed by this Act.

SECTION 16. (a) Unless refunded or defeased as hereafter authorized, the 1965 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the Fee Revenues, and nothing herein shall be construed as impairing their security as authorized by Act No. 38 and as provided in the Resolution of the Commission securing the 1965 Bonds. However, subject to the above, all moneys in the Construction Fund established and maintained by the Commission pursuant to the Resolution securing the 1965 Bonds shall be transferred to the Construction Fund into which the proceeds of the Bonds issued hereunder are deposited and used for the Construction of the Expansion.

(b) The Commission is hereby authorized, in its discretion, to refund or defease the outstanding 1965 Bonds, as hereafter provided, in which event the moneys in the Construction Fund established by the Resolution securing the 1965 Bonds shall be transferred to the Construction Fund established pursuant to the provisions of this Act and the moneys in the Bond Fund established pursuant to the provisions of the Resolution authorizing the 1965 Bonds shall be transferred to the Bond Fund established pursuant to the provisions of this Act. If the Commission determines to so proceed, the necessary additional principal amount of Bonds to accomplish the refunding or defeasing shall be issued and proceeds thereof shall be applied by the Commission to the payment (principal, premiums, if any, interest and fees and expenses) of all of the outstanding 1965 Bonds at maturity or earlier redemption (as the Commission shall determine). The necessary moneys shall be deposited in trust in the Bond Fund established pursuant to the provisions of the Resolution authorizing the 1965 Bonds. The Commission shall invest, or authorize the investment of, the moneys in the 1965 Bond Fund to the full extent feasible, as determined by the Commission, in direct or fully guaranteed obligations of the United States of America. All moneys in the 1965 Bond Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment of the 1965 Bonds. Upon deposit in the 1965 Bond Fund of the moneys provided for herein, the 1965 Bonds shall be deemed to be paid, defeased and retired.

(c) The Commission shall include necessary provisions in the Resolution securing the Bonds issued under this Act, or in the Trust Indenture, for deposit of the proceeds of the Bonds (other than accrued interest which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to provisions of Subsection (b) of this Section 16) into a special Construction Fund (the "Construction Fund") which shall be a trust fund maintained in such depository as the Commission shall designate. The moneys in the Construction Fund shall be used to carry out the authorities, powers and purposes of the Commission specified in this Act. The Commission shall include appropriate provisions in the Resolution or Trust Indenture authorizing and securing the Bonds governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Commission to be appropriate and as shall be specified in the authorizing Resolution or Trust Indenture).

SECTION 17. In the event of the refunding or defeasing of the 1965 Bonds as authorized by Section 16 hereof, Sections 10, 11, 12, 13 and 15 of Act No. 38 shall be repealed and of no further force and effect.

SECTION 18. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 19. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Commission.

SECTION 20. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of this Act.

SECTION 21. All laws and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 22. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law and required for the proper administration of the State Government, to the detriment of the public health and safety and that only by the immediate operation of this Act can these conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval. APPROVED: March 24, 1977.

8. REGULATORY AGENCIES BUILDING — ACTS 1977, No. 820.

SECTION 1. The Arkansas State Building Services, created by Act No. 716 of 1975 and hereinafter referred to as "State Building Services," is hereby authorized and empowered to:

(a) Construct and equip a Regulatory Agencies Building, upon the lands acquired in the name of the State of Arkansas by the Arkansas Revenue Department Building Commission pursuant to the provisions of Act No. 151 of 1965 and transferred to the State Building Services under the provisions of Section 6(b) of Act No. 716 of 1975.

(b) Arrange for the housing therein of such boards, commissions, authorities, agencies, departments, and offices of the State, or the component parts thereof (hereinafter referred to as "state agencies"), as the State Building Services shall deem necessary or desirable in the exercise of its authority and the discharge of its responsibilities under the provisions of Act No. 716 of 1975 and this Act.

(c) Construct, cause to be constructed, or make any portion of the lands described in subsection (a) of this Section 1 available for the construction of parking facilities to serve the Regulatory Agencies Building, and to serve other state officers and employees and the public having business with the State. As used in this Act, the term "Regulatory Agencies Building" shall include the parking facilities authorized by this subsection (c).

(d) Obtain the necessary funds for the financing of the objects specified in this Section 1, from one or more of the following sources:

(1) Proceeds of revenue bonds as hereinafter in this Act specified.

(2) Funds appropriated by the General Assembly to State Building Services for the construction and equipment of the Regulatory Agencies Building; provided that the particular state agencies housed or to be housed therein shall not have the right to select persons to perform architectural or engineering or construction services, notwithstanding the provisions of Section 7(b) of Act No. 716 of 1975.

(3) Funds from any other source authorized by Act No. 716 of 1975 or other law, including, without limitation, funds appropriated by the General Assembly to State Building Services not designated to be spent for a particular public building or capital improvement for a particular state agency.

(e) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities conferred by, and to carry out the intent and purposes of, this Act.

SECTION 2. (a) The State Building Services is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, in the total aggregate principal amount of \$4,000,000 and to use the proceeds thereof for defraying the costs of accomplishing all or any part of the authorities and powers set forth in Section 1 of this Act, paying all incidental expenses in connection therewith, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the State Building

Services deems such desirable, and making provision for the payment of interest on the bonds during and for up to one year after construction, if the State Building Services deems such desirable.

(b) The bonds shall be authorized by resolution of the State Building Services Council ("authorizing resolution"). The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, provided that no bond may bear interest at a rate exceeding ten percent (10%) per annum, may be made payable at such place or places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the State Building Services shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth above. The authorizing resolution may contain any other terms, covenants and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties and obligations of the State Building Services and of the holders and registered owners of the bonds.

The authorizing resolution may provide for the execution by the State Building Services with a bank or trust company within or without the State of Arkansas of a trust indenture. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties and obligations of the State Building Services and of the holders and registered owners of the bonds.

(c) The bonds may be sold to any one or more retirement systems now existing or hereafter created by the General Assembly of the State of Arkansas, or may be sold at public sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published once in a newspaper published in the City of Little Rock, Arkansas, and

having a general circulation throughout the State of Arkansas, at least twenty (20) days prior to the date of sale and may be published in such other publications as the State Building Services may determine. In either case the bonds may be sold at such price as the State Building Services may accept including sale at a discount, but in no event shall any bid be accepted which results in a net interest cost (determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting any premium or adding the amount of any discount) in excess of the interest cost computed at par for bonds bearing interest at the rate of ten percent (10%) per annum. The award at any public sale, if made, shall be to the bidder whose bid results in the lowest net interest cost.

(d) The bonds shall be executed by the manual or facsimile signatures of the Chairman and Secretary of the State Building Services Council, provided that one of such signatures must be manual. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Council. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes. The State Building Services shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the State Building Services.

SECTION 3. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act, that the bonds shall be obligations only of the State Building Services, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged, and that they are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas. No member of the State Building Services Council shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act unless he shall have acted with a corrupt intent.

(b) The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the revenues derived from the operation of the Regulatory Agency Building (including, without limitation, lease rentals derived from the leasing of space in the Regulatory Agencies Building to the state agencies housed in the Regulatory Agencies Building). The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provision for the use of surplus revenues, if any, for other lawful purposes.

(c) The State Building Services shall undertake the necessary investigation and shall make a determination of state agencies which can be housed in the Regulatory Agencies Building and the State Agency Revenues (as hereinafter defined) of each such agency. State Agency

Revenues are hereby defined to be those revenues received by each such agency (directly or by way of appropriation) from sources other than the proceeds of taxes as the term “taxes” is ordinarily used. State Building Services and each state agency so found to have State Agency Revenues are hereby authorized to enter into longterm lease agreements (which may have a term of years no less than the period covered by the maturity schedule of the longest maturing outstanding bonds) for space in the Regulatory Agencies Building. In each such agreement, the state agency’s commitment to make rental payments for such space shall be payable solely from its State Agency Revenues. State Agency Revenues, to the extent of such rental commitments, shall not be paid into the State Treasury and shall not be subject to legislative appropriation but shall be transferred by each such state agency directly to State Building Services in discharge of that state agency’s obligations under its lease agreement. All such State Agency Revenues (to the extent necessary to discharge all commitments of state agencies under such lease agreements) are hereby declared to be cash funds restricted in their use and dedicated and to be used solely as provided in this Act. So long as any bonds authorized by this Act are issued and outstanding, State Building Services shall be obligated to select state agencies and enter into such long-term lease agreements, in accordance with its determinations made in accordance with the above provisions, which provide for aggregate rentals not less than the total amount necessary to pay when due the principal of, premiums, if any, interest on, trustee’s and paying agent’s fees in connection with, and any other fees and expenses required to discharge covenants and obligations in the authorizing resolution or trust indenture securing, all outstanding bonds issued hereunder. Different state agencies may be housed from time to time and lease agreements may be altered, or one agency or lease agreement substituted for another, so long as the aggregate of rentals called for by all outstanding lease agreements with state agencies selected pursuant to provisions hereof at all times while bonds are outstanding hereunder shall be no less than the amount necessary to pay when due the principal of, premiums, if any, interest on, trustee’s and paying agent’s fees in connection with, and any other fees and expenses required to discharge covenants and obligations in the authorizing resolution or trust indenture securing, all outstanding bonds issued hereunder.

SECTION 4. (a) Any authorizing resolution and trust indenture shall, together with this Act, constitute a contract between the State Building Services and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements and obligations of the State Building Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

(1) that it will continuously operate the Regulatory Agencies Building as a revenue-producing undertaking, including the maintenance of occupancy and use of facilities and space so as to avoid any impairment of the security for the bonds; and

(2) that it will always charge, impose and collect sufficient revenues (including, without limitation, rentals) to meet, as due, all debt service requirements, maintain reserves at proper levels and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and funds.

SECTION 5. All moneys received by the State Building Services from the Regulatory Agencies Building (including moneys from leasing or renting of space or facilities therein) are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act. Such moneys shall not be deposited in the State Treasury and shall not be subject to legislative appropriation but shall be deposited by the State Building Services, as and when received, in such bank or banks as the State Building Services may from time to time select, and secured, invested and disbursed as provided in this Act.

SECTION 6. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and the exemption shall include income, inheritance and estate taxes.

SECTION 7. The Board of Trustees of any retirement system now existing or hereafter created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in bonds issued under this Act.

SECTION 8. The State Building Services is hereby authorized to employ architects to prepare plans, specifications and estimates of cost for the construction of the Regulatory Agencies Building and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction of the Regulatory Agencies Building in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this Act.

SECTION 9. The State Building Services shall include necessary provisions in the authorizing resolution or trust indenture to require the deposit of the proceeds of each bond issue (except amounts for interest or reserves, which may be deposited in the Bond Fund) into a special Construction Fund ("Construction Fund") which shall be a trust fund in such depository as the State Building Services shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation, and all moneys in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be

secured by direct obligations of the United States of America, unless invested in securities specified by the State Building Services. The moneys in the Construction Fund shall be used solely for the purposes set forth in Section 1 and Section 2(a) of this Act.

SECTION 10. Bonds may be issued for the purpose of refunding any bonds issued under this Act. Refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or authorized investments for the retirement of the bonds being refunded, as shall be specified by the State Building Services in the authorizing resolution or trust indenture securing the refunding bonds and subject to compliance with the provisions of the authorizing resolution or trust indentures securing the bonds being refunded. The resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority of lien on revenues pledged for their payment as was enjoyed by the bonds refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this Act pertaining to the sale and security of bonds.

SECTION 11. This Act shall not create any right in any bondholder for bonds issued pursuant to this act, and no right for such bondholder shall arise under it, until bonds authorized by this Act (or the initial issue or series) shall have been sold and delivered by the State Building Services.

SECTION 12. The State Building Services shall be responsible for the maintenance, operation, and repair of the Regulatory Agencies Building, and, subject to the provisions of any authorizing resolution or trust indenture securing outstanding bonds, all or any part of the costs of such maintenance, operation and repair may be paid from revenues derived from the Regulatory Agencies Building (including, without limitation, rentals).

SECTION 13. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods and things.

SECTION 14. The provisions of this Act are hereby declared to be severable. If any provision of this Act, shall be held invalid or inapplicable to any state agency, person, firm or circumstances, such invalidity or inapplicability shall not affect the validity or applicability of the remainder of this Act.

SECTION 15. This Act shall be complete and sole authority for the accomplishment of the purposes hereof. To the extent that there is a conflict between the provisions of this Act and Act No. 716 of 1975, the provisions of this Act shall govern. All laws and parts of laws in conflict herewith, except Act No. 716 of 1975, are hereby repealed to the extent of such conflict.

SECTION 16. The General Assembly hereby finds and declares that there is an urgent need to construct and equip a building to meet the

space and facilities requirements of state agencies and that this Act is immediately necessary for the accomplishment of such purpose. Therefore, an emergency is declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be effective from and after its passage and approval. APPROVED: March 28, 1977.

9. REGULATORY AGENCIES BUILDING — ACTS 1979, No. 1102.

SECTION 1. The State Building Services is hereby authorized and directed to construct and equip a State Regulatory Agencies Building to be located on the State Capitol Grounds at a site to be designated by the State Building Services Council, in the manner as authorized in Act 820 of 1977, and in this Act. The General Assembly hereby determines that the construction of such State Regulatory Agencies Building is in the public interest and is necessary to make the services of such Regulatory Agencies more accessible and convenient to the public, and that the implementation of this Act shall proceed without undue delay.

SECTION 2. (a) For the purpose of enabling the Arkansas State Building Services, created by Act 716 of 1975, as amended, to construct a regulatory agencies building as contemplated in Act 820 of 1977, the Chief Fiscal Officer of the State in cooperation with State Building Services, shall conduct a survey of the various occupational, business, and professional licensing boards as enumerated in Title 71 and Title 72 of the Arkansas Statutes, and shall:

(1) determine the adequacy of the buildings and facilities now used to house said agencies;

(2) evaluate the access of said agencies and their books, records, and administrative offices and services with respect to serving the needs and conveniences of the public.

(3) shall inquire of each of such occupational, business, and professional licensing board with respect to the estimated space requirements needed for the efficient operation of their boards and staffs for at least the next two (2) decades, and

(4) determine the fund balances or reserves available for support of each of said boards and commissions which are not required in their day-to-day operation but could be devoted to defray a portion or all of the cost of constructing and equipping the space to be assigned to said boards and commissions in a State Regulatory Agencies Building, to be constructed by the State Building Services as authorized in Act 820 of 1977.

(b) Upon completion of such study, if the Chief Fiscal Officer of the State and State Building Services shall determine it to be in the better interest and convenience of service to the public of this State, and for the efficient operation of the respective boards and commissions and their staffs, to be housed in a regulatory agencies building to be located on the State Capitol Grounds, and further determines that with the funds available to the several boards and commissions and their staffs, to be housed in a regulatory agencies building to be located on the State

Capitol Grounds, and further determines that with the funds available to the several boards and commissions, the amount of surplus or reserve funds that could be allocated by said boards toward the cost of constructing and equipping said building, together with the proceeds of revenue bonds to be issued by State Building Services, if any, as authorized in said Act 820 of 1977, would be adequate to construct and build said State Regulatory Agencies Building, he shall designate the boards and commissions and their staffs to be housed in the State Regulatory Agencies Building and shall, after receiving the advice of the Arkansas Legislative Council, recommend to the State Building Services the amount of space to be constructed for their respective uses. Upon receipt of the report from the Chief Fiscal Officer of the State, the State Building Services shall estimate the cost of constructing and equipping said State Agencies Regulatory Agencies Building, and shall apportion to each board and commission the amount of the cost thereof to be paid by each such board and commission by fund transfers as authorized hereinafter, or the amount of their allocated costs to be paid from the proceeds derived from the sale of revenue bonds, and the amount of annual rental payments that would be required to meet their pro rata portion of the debt service requirements of principal and interest and other costs incurred in connection with said bond issue.

(c) If any occupational, business, or professional licensing board is aggrieved by the proposed action of the State Building Services, they may appeal therefrom within thirty (30) days from the date of receipt of the aforementioned certification from the State Building Services, in writing to the Governor, who shall hold a hearing thereon within thirty (30) days and either approve the action proposed by the State Building Services, reject the same, or modify such action in such manner as the Governor deems reasonable and necessary.

(d) Each occupational and professional licensing board shall transfer or pay to the State Building Services from funds belonging to said board or commission, the amount of monies as certified by the Chief Fiscal Officer of the State to the State Building Services as being available from such board or commission, for payment toward the cost of constructing their allocated space in the proposed building. Such transfer shall be made within such time as requested by State Building Services.

The monies received by the State Building Services from the respective occupational, business, and professional licensing boards to be used in total or partial payment of the cost of constructing a State Regulatory Agencies Building to house their respective agencies shall be set aside in a State Regulatory Agencies Building Fund Account to be used together with monies derived from the sale of Revenue Bonds, if any, as authorized by Act 820 of 1977, solely and exclusively for constructing and equipping a State Regulatory Agencies Building in the manner proposed by the State Building Services.

The Arkansas Legislative Council shall be advised monthly by State Building Services as to the progress of constructing this building.

SECTION 3. APPROPRIATION. There is hereby appropriated, to be payable from bond proceeds and fund balances received from regulatory agencies under the provisions of this Act, for constructing, equipping, debt service requirements, and associated costs of providing a State Regulatory Agencies Building, to the State Building Services, the sum of ... \$4,000,000.00.

SECTION 4. EMERGENCY. It is hereby found and determined by the Seventy-Second General Assembly that many regulatory agencies are located in various places in the State and within the City of Little Rock; that this situation has created confusion and frustration in the minds of the public when they wish to conduct business with any of these agencies; that many of these agencies have part-time staffs and much of their work could be done by a central staff; and that by locating these agencies in a central location both the public convenience and the efficient use of public funds could be better served. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. APPROVED: April 19, 1979.

10. OIL AND GAS COMMISSION BUILDING — ACTS 1985, No. 270.

SECTION 1. DEFINITIONS. As used herein, the following words and phrases shall, unless the context herein clearly indicates otherwise, mean:

(a) "Commission" shall mean the "Oil and Gas Commission" established by Act 105 of 1939, as amended.

(b) "Director" shall mean the Director of Production and Conservation of the Oil and Gas Commission, who also serves as ex officio Secretary of the Commission.

(c) "Chief Fiscal Officer of the State" shall mean the Director of the Department of Finance and Administration serving in his capacity as the Chief Fiscal Officer of the State, as authorized by law.

(d) "State Building Services" shall mean the State Building Services as established by Act 716 of 1975, as amended.

(e) "Fee revenues" or "fee revenues of the Commission" shall mean monies derived by the Oil and Gas Commission from assessments imposed by the Commission against each barrel of oil produced and each 1,000 cubic feet of natural gas produced in this State, as authorized by Section 6 of Acts 105 of 1939, as amended, and shall include all other fees authorized by law to be collected by the Commission as hearing fees, drilling fees, annual fees, and all other fees and costs imposed by the Commission to defray the administrative costs of administering the oil and gas laws of this State, which are required by law to be deposited in the Oil and Gas Commission Fund in the State Treasury, as contrasted to tax revenues deposited in the Oil and Gas Commission Fund for the support of the Commission.

(f) "Surplus fee revenues" shall mean:

(i) that portion of the balance of funds in the Oil and Gas Commission Fund which accrued thereto from fee revenues, which the Oil and Gas Commission determines may be set aside for the purpose of defraying construction costs and debt service requirements with respect to funds borrowed for the construction and equipping of the building and parking lot to house the Commission and its staff, as authorized in this Act, and

(ii) shall include that portion of fee revenues estimated to be collected by the Commission during the lifetime of any indebtedness incurred under the provisions of this Act, that the Commission designates to be set aside to defray construction costs and debt service requirements for indebtedness incurred in connection with the construction and equipping of the building and parking lot to house the Commission and its staff, which the Commission determines not to be required to defray annual operating costs of the Commission and its staff, programs, and services.

(g) "Project" or "the project" shall mean the acquisition of land and the construction and equipping of a building and parking lot in El Dorado, Union County, Arkansas, to house the Oil and Gas Commission, its staff and programs and services of the Commission, and shall include all expenses necessary or attendant thereto.

SECTION 2. The Oil and Gas Commission is hereby authorized to immediately complete the acquisition of land and to proceed with the development of plans, the advertisement for bids, and the award of contracts for the construction and equipping of a building and parking lot to meet the needs and requirements of the Commission and its staff for a headquarters building, to be located in El Dorado, Union County, Arkansas, for which funds were appropriated by Acts 371 of 1983.

SECTION 3. The following shall be requisite to the completion and acquisition of the necessary land and the construction of such building and parking lot for the Oil and Gas Commission:

(A) A formal resolution shall be adopted by the Commission at a regular or special meeting of the Commission, indicating its intention to implement the provisions of this Act, and such resolution shall be recorded in the minutes of the Commission meeting. The resolution shall set forth the details of the building and facilities to be constructed, the equipment to be acquired, and the proposed Method of Financing of such project.

(B) Recommendation in writing by the State Building Services affirming the need for the construction of the building and improvements contemplated in the resolution adopted by the Commission. State Building Services shall, in connection with such building project, perform the respective duties required in connection therewith, as provided in subsection (c) of Section 7 of Act 716 of 1975, and all other duties with respect to such project as required by Act 716 of 1975 or by other laws of this State.

(C) Review and approval by the Chief Fiscal Officer of the State of the proposed Method of Financing the project, as provided by law.

SECTION 4. The Commission is hereby authorized to finance the construction cost of the project (acquisition of land, construction and equipping of the building and parking lot), for which funds were appropriated in Act 371 of 1983, as follows:

(a) the use of surplus fee revenues (as defined in this Act) estimated to be available to the Oil and Gas Commission Fund, which will not be required for the day-to-day operation of the Commission;

(b) the use of funds derived from the sale of the present Oil and Gas Commission building, including the land thereupon; and

(c) from funds borrowed by the Commission deemed necessary to supplement other funds available to the Commission for the project, as authorized in Section 5 of this Act.

Provided that, the cost of the project for the acquisition of land, construction, and equipping of the building and the parking lot for the Oil and Gas Commission shall not exceed an aggregate cost of \$1,500,000.

SECTION 5. (a) The Oil and Gas Commission is hereby authorized to borrow such funds as may be necessary to supplement monies available to the Commission for the Oil and Gas Commission building construction project from one or more banks or lending institutions in this State, for such duration and at such rate(s) of interest as the Commission may deem to be in the best interest of the early completion of the project.

(b) It shall be plainly stated on the face of the loan instrument(s) that the same has been issued under the provisions of this Act, and that the loan(s) shall be an obligation only of the Oil and Gas Commission, that in no event shall the indebtedness constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged.

(c) No member of the Oil and Gas Commission shall be personally liable on any such loan(s) or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purpose and intent of this Act, unless he shall have acted with a corrupt intent.

(d) The principal of, interest on, and any indebtedness expenses in connection with such loan(s) shall be secured by a lien on and pledge of the surplus fee revenues belonging to the Oil and Gas Commission, as defined herein, and shall be payable solely from such fee revenue monies.

(e) As long as such indebtedness is outstanding, the maximum rate of assessment fees authorized to be imposed by the Oil and Gas Commission with respect to oil and gas production in this State, and the rate of other fees and costs authorized to be collected by the Commission as now authorized by law, shall not be reduced, provided that, in the event any of such fees or the maximum assessment fee rates are reduced, the General Assembly hereby agrees to authorize additional fees or sources of fees for the support of the Commission at least equal to those that would have been collected by the Commission from assessments and fees now authorized by law, while any such indebtedness is outstanding.

(f) Payment of principal of, interest on, and other costs of indebtedness incurred under this Act may be made from funds appropriated for such project under the provisions of Act 371 of 1983, or from any other funds appropriated for the support, maintenance, and operation of the Oil and Gas Commission.

SECTION 6. Monies derived by the Commission for the support of the project from loans as authorized in Section 5 of this Act shall be deposited in the State Treasury to the credit of the Oil and Gas Commission Fund, unless the loan instrument requires the same to be deposited in a bank account to be available solely for the support of the project, in which event the Commission may establish one or more accounts in banks authorized to do business in this State and deposit the monies derived from the loan therein, in an account to be known as the "Oil and Gas Construction Account" to be used solely and exclusively within the limits and for the purposes set forth in Act 371 of 1983.

SECTION 7. For the purpose of reducing the estimated amount of funds to be borrowed in connection with such building project, the Oil and Gas Commission is hereby authorized to provide for the sale of the existing building and land belonging to the Commission located in the City of El Dorado, Union County, Arkansas, if the Commission determines that said building and the land upon which the building is located will no longer be required for use by the Commission. The proposed sale of the building may be conditioned upon the purchaser agreeing to lease the building to the Commission at a rental rate acceptable to the Commission for a stated period of time estimated to be required for the construction and equipping of the building to house the Commission and its staff. If the Commission elects to dispose of such building and land, in order to apply the proceeds derived from such sale toward the construction cost of the new facility, the Commission shall certify said fact to the State Building Services and request the State Building Services to provide for the sale of the building in the manner authorized by law, with the net proceeds derived therefrom, after deducting all costs of such sale, to be deposited in the State Treasury to the credit of the Oil and Gas Commission Fund. If the Commission finds it necessary to rent facilities for housing of all or a portion of its staff and services during the course of the construction work, such rental payments may be considered as a part of the construction cost, and payment thereof may be made from monies appropriated for such project under the provisions of Act 371 of 1983, or from any other funds appropriated for the support, maintenance, and operation of the Oil and Gas Commission.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that the Oil and Gas Commission is housed in an inadequate facility which severely handicaps the Commission's ability to perform its duties as required by law, and that the immediate passage of this Act is necessary to authorize the Commission to proceed

with the construction of an adequate building and parking lot to house the Commission and its staff, thereby expediting the Commission's ability to regulate the exploration and production of oil and natural gas in this State. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval. APPROVED: March 6, 1985.

11. WAR MEMORIAL STADIUM, REMISSION OF TRUST FUNDS — ACTS 1985, No. 393.

SECTION 1. The trustee of the trust estate established by the War Memorial Stadium Commission under the trust agreement entered into pursuant to the authority of Act 3 of the Second Extraordinary Session of 1968, approved May 24, 1968, for the purpose of securing the payment of, and of paying, its outstanding War Memorial Stadium revenue bonds, authorized and issued under the provisions of Act 249 of the Acts of the General Assembly, approved March 18, 1947, referred to in said Act 3 as "2- $\frac{1}{4}$ % bonds," and its outstanding War Memorial Stadium Revenue Refunding Bonds, authorized and issued under the provisions of Act 5 of the Acts of the General Assembly, approved August 31, 1961, referred to in Act 3 as "refunding bonds," is hereby authorized and directed to convert the assets of such trust estate into cash and to remit the entire balance of funds remaining in said trust estate, to the War Memorial Stadium Commission, to be deposited in the War Memorial Stadium Commission Fund in one or more banks in this State, to be used by said Commission for the construction, reconstruction, repair, improvement, maintenance, and operation of the War Memorial Stadium in the manner provided by law.

SECTION 2. After receiving from the trustee the balance remaining in the trust fund established under the authority of Act 3 of the Second Extraordinary Session of 1968, the War Memorial Stadium Commission shall, from funds available to the Commission, indemnify the trustee of such trust estate against any and all liability with respect to War Memorial Stadium revenue bonds or War Memorial Stadium Revenue Refunding Bonds, including any accrued interest thereon, which may be presented for payment by the trustee subsequent to the transfer of the balance of funds to the War Memorial Stadium Commission, as provided in this Act.

SECTION 3. This Act shall repeal only such laws or parts of laws as are specifically in conflict herewith.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that:

(a) the War Memorial Stadium Commission is in need of additional funds to make expansions, improvements, and repairs to the War Memorial Stadium and is in need of additional operating funds to provide for the protection and safety of the people attending the various attractions held at the Stadium, and that said needs should be met at the earliest possible moment;

(b) the balance of funds now being held by the trustee of the trust estate established pursuant to the trust agreement entered into by the War Memorial Stadium Commission pursuant to Act 3 of the Second Extraordinary Session of 1968 is needed to relieve said conditions;

(c) the owners of outstanding War Memorial Stadium revenue bonds and/or Refunding Bonds have had reasonable and ample opportunity to present the same for payment, and that it is no longer necessary to tie up said funds in accordance with the trust agreement, thereby depriving the War Memorial Stadium Commission of the use of said funds for improving and operating the War Memorial Stadium;

(d) by authorizing and directing the Stadium Commission to indemnify the trustee for any obligations presented for payment in accordance with the trust agreement, said trustee will be held harmless from liability, and the Commission will be authorized to meet the obligations of such payment from monies available to the Commission; and

(e) that the immediate passage of this Act is necessary to accomplish said purposes.

Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval. APPROVED: March 18, 1985.

12. CAPITOL MALL FACILITY AND STATE AGENCIES FACILITIES ACQUISITION ACT OF 1991 — ACTS 1991, No. 235, AS AMENDED BY ACTS 1991, No. 923.

SECTION 1. This act shall be known and cited as the “Capitol Mall Facility and State Agencies Facilities Acquisition Act of 1991.”

SECTION 2. DEFINITIONS. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) “Agency” or “state agency” means any agency, board, office, commission, department, division or institution of the State of Arkansas.

(b) “Bonds” or “revenue bonds” means any bonds, notes, debentures, interim certificates, grant and revenue anticipation notes, interest in a lease, lease certificate(s) of participation or evidences of indebtedness, whether or not the interest on them is subject to federal income taxation.

(c) “The Capitol Mall Facility” or the term “the facility” means those structures contained in the “Facilities — Master Plan — Year 1985” on page 79 of the Arkansas State Capitol Complex Master Plan, as prepared under the direction of the Arkansas Public Building Authority authorized by Act 236 of 1973, dated June, 1974, and any architectural drawings prepared in connection therewith which are on file with State Building Services, to include the following:

(i) Building Number 1 under the Legend, entitled “Agency Office, Module A; Visitor Center, 220 Car Garage;”

(ii) Building Number 2 under the Legend, entitled “Agency Office, Module B;”

(iii) Building and Facility Number 4 under Legend, entitled “750 Car Garage;”

(iv) the necessary tie-in to the State Capitol Building and to connect Building Number 3 under the Legend, entitled “Library Archives — Museum Module” now existing, which is commonly referred to as the the “Big Mac” or “Capitol Mall No. 1” Building;

(v) such modifications to the aforementioned buildings and facilities, and the architectural drawings prepared in connection therewith, as are deemed necessary to meet current and projected needs;

(vi) landscaping and other improvements in connection with the project deemed necessary to accommodate the overall architectural and topographical scheme of the State Capitol grounds; and

(vii) related structures, fixtures, and facilities (including, without limitation, utilities, parking facilities, streets, curbs, gutters, and a maintenance/operations center necessary to accommodate such facility), as may be determined to be appropriate.

(viii) construction of such additional parking decks and parking facilities that are not identified in the “Facilities — Master Plan — Year 1985” on page 79 of the Arkansas State Capitol Complex Master Plan, which State Building Services deems necessary to meet parking needs on the State Capitol grounds, provided that the construction thereof does not conflict with the basic design and location of proposed buildings and facilities included within the long-range Capitol Complex Master Plan.

(d) “State Building Services” means the public agency known as “Arkansas State Building Services” and the “State Building Services Council”, as established under Arkansas Code § 22-2-101 et seq.

(e) “Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements or other property, real, personal or mixed, useful in connection with buildings and facilities constructed or acquired under this act and to make other necessary expenditures in connection therewith, by such methods and in such manner as the State Building Services shall determine to be necessary or desirable to accomplish the powers, purposes, and authority set forth in this act.

(f) “Authority” means the Arkansas Development Finance Authority created pursuant to Act 1062 of 1985, as amended.

SECTION 3. (a) CAPITAL MALL FACILITY. In addition to the purposes, powers, and authority set forth elsewhere in this act or in other laws, the State Building Services is hereby authorized and empowered to construct on the State Capitol grounds the Capitol Mall Facility, as defined herein, with construction of new enclosed buildings not to exceed a cumulative gross building area of one hundred thousand (100,000) square feet commenced through calendar year 1992, two hundred thousand (200,000) square feet commenced through calendar year 1994, three hundred thousand (300,000) square feet commenced through calendar year 1996, four hundred thousand (400,000) square

feet commenced through calendar year 1998, and five hundred thousand (500,000) square feet commenced through calendar year 2000, with such restrictions to apply to enclosed buildings only and shall not apply to square feet area of parking structures or parking space required in connection with or necessitated by the construction of new buildings or to meet the needs of parking space on the State Capitol grounds; and in furtherance thereof to:

(1) arrange for the housing in the Capitol Mall Facility of state agencies to the extent that space and facilities are available for such purpose, under such terms and conditions and for such rentals and charges as State Building Services may determine;

(2) construct or cause to be constructed streets, curbs gutters, utilities, landscaping, and parking facilities to serve the facility;

(3) purchase, lease, or rent, and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property (real, personal, or mixed), and convert such property into money and/or other property;

(4) contract and be contracted with;

(5) apply for, receive, accept, and use any moneys and property from the government of the United States of America, provided by the General Assembly, any agency, any state, or governmental body or political subdivision, any public or private organization or corporation, of any nature, or any individual;

(6) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth herein, in accordance with the duly promulgated policies of the State Building Services as authorized by law.

(b) In addition to the purposes, powers and authority set forth elsewhere in this act or in other laws, in connection with the construction and equipping of the Capitol Mall Facility, as defined herein, the Authority is hereby authorized:

(1) to obtain the necessary funds for accomplishing the purposes set forth in this act, from any source or sources, including, without limitation, the proceeds of revenue bonds or lease financings as authorized herein, and other funds as may be appropriated or may be available therefor; and

(2) contract and to be contracted with; and

(3) invest and reinvest any of the proceeds of such revenue bonds as provided in such authorizing resolution or trust indenture, hereinafter authorized; and

(4) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes and authority set forth herein, in accordance with the duly promulgated policies of the Authority as authorized by law.

(c) **ACQUISITION OF BUILDINGS AND FACILITIES.** In addition to the purposes, powers, and authority set forth in subsection (a) of this section and as set forth elsewhere in this act or in other laws, the State Building Services is hereby authorized and empowered to acquire buildings and facilities located in the city in which the seat of State Government is

located to house state agencies, and repair, remodel, and renovate such buildings and facilities as State Building Services shall deem necessary and appropriate to accommodate state agencies, provided that no single acquisition may exceed a total cost of four million dollars (\$4,000,000) in value, whether acquired by purchase, exchange, eminent domain, long-term lease, or other means, exclusive of the cost of repairs, remodeling, and renovation of such buildings and facilities as State Building Services deems necessary and appropriate to accommodate state agencies, provided that the area of the structure of any such existing building or facility is not expanded by more than ten percent (10%) in connection therewith. All property acquired on a specific site shall be considered as a part of a single acquisition. In furtherance of the purposes authorized by this subsection, State Building Services is hereby authorized and empowered to:

(1) exercise the power of eminent domain for the purpose of acquiring buildings and facilities and to otherwise carry out the purposes and intent of this act, with such power to be exercised in the manner provided in Arkansas Code § 22-2-109;

(2) arrange for the housing of state agencies in such buildings and facilities to the extent that space and facilities are available for such purpose, under such terms and conditions and for such rentals and charges as State Building Services may determine;

(3) acquire, construct, or cause to be constructed parking facilities to serve the facility;

(4) receive the necessary funds for accomplishing its powers, purposes, and authority from any source or sources, including, without limitation, the proceeds of revenue bonds issued hereunder and other funds as may be appropriated or made available therefor;

(5) purchase, lease, or rent, and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property (real, personal, or mixed), and convert such property into money and/or other property;

(6) contract and be contracted with;

(7) apply for, receive, accept, and use any monies and property from the government of the United States of America, any agency, any state, or governmental body or political subdivision, any public or private organization or corporation, of any nature, or any individual;

(8) invest and reinvest any of its money (in securities selected by State Building Services);

(9) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth herein, in accordance with the duly promulgated policies of the State Building Services Council.

(d) It is the intent of this section to authorize State Building Services to undertake, in the manner and subject to the limitations set forth in subsection (a), the construction of the Capitol Mall Facility and that, excepting parking structures, new building construction shall not be permitted under this act except to implement the Capitol Mall Facility as defined in subsection (c) of Section 2 of this act. In addition, it is the

purpose of this act to authorize State Building Services to acquire buildings and facilities ("acquired structures") in the city in which the seat of State Government is located in the manner authorized in subsection (b) of this section and to provide that the repair, remodeling, and renovation of such facilities by State Building Services shall not be considered new building construction if such repair, remodeling, and renovation does not expand the existing structure by more than ten percent (10%) in area. The restrictions contained in subsection (a) of this section with respect to the limitations on the square footage of new construction to be undertaken on the Capitol Mall Facility during each biennium, and the restrictions on the cost of a single "acquired structure" under subsection (b) of this section, shall not apply to the acquisition, construction, or improvement of parking structures or parking areas as authorized under subsection (a) of this section or in connection with "acquired structures" under subsection (b) of this section.

SECTION 4. REVENUE BONDS.

(a) Pursuant to the intention of the General Assembly expressed in Arkansas Code Annotated § 15-5-303, the Authority, in co-operation with State Building Services, is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, and to use the proceeds thereof for defraying the costs of accomplishing all or part of the powers, purposes and authorities set forth in this act, pay all incidental expenses in connection therewith, pay the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the Authority deems such desirable, and making provision for the payment of interest and trustee's fees on the bonds. The bonds outstanding under this act may be in such principal amount as the Authority and State Building Services shall determine to be necessary for the accomplishment of the purposes of this act.

(b) The bonds shall be authorized, shall be sold by such means, shall bear such rate or rates of interest, and shall be executed and delivered in such manner as the Authority may determine pursuant to the provisions of Arkansas Code Annotated § 15-5-301 to § 15-5-316, inclusive. The Authority is authorized to enter into such authorizing resolutions and trust indentures as it deems necessary to secure the revenue bonds.

SECTION 5. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this act, that the bonds shall be obligations only of the Authority, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (within the meaning of Amendment 20 to the Constitution of the State of Arkansas) are pledged. No member of the Authority shall be personally liable on the bonds.

(b) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the pledged revenues,

defined in Section 6 hereof. The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provisions for the use of surplus revenues, if any, for any other lawful purposes.

SECTION 6. The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this act shall be secured solely by a lien on and pledge of the gross revenues derived from the leasing or renting to state agencies or other tenants of space in the Capitol Mall Facility and in the buildings and facilities acquired pursuant to this act and the pledging of such revenues (the "pledged revenues") is hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted in their use and dedicated (and) to be used solely as provided and authorized in this act. Commencing the first day of the month succeeding the issuance of the bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation, but, as and when received (by the Authority, or by any other state agency, as the case may be) shall be deposited in a bank or banks selected by the Authority, to the credit of funds designated the "Capitol Mall Facility and State Agencies Facilities Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all moneys in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this section is intended to prohibit the State Building Services from investing moneys received hereunder, as provided in this act.

SECTION 7. Any authorizing resolution and trust indenture shall, together with this act, constitute a contract between the Authority and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the Authority may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the Authority is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

- (1) that, to the fullest extent possible, State Building Services will continuously operate the Capitol Mall Facility and other buildings and facilities acquired under this act as revenue-producing undertakings, including the maintenance of occupancy and the use of facilities and space so as to avoid any impairment of the security for the bonds; and

- (2) that, to the fullest extent possible, State Building Services and

the Authority will always charge, impose and collect sufficient rentals and other revenue to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and bonds.

SECTION 8. Bonds issued under the provisions of this act, and the interest thereon, shall be exempt from all state, county, and municipal taxes, and the exemption shall include income, inheritance, and estate taxes.

SECTION 9. The Authority shall include necessary provisions in the authorizing resolution or trust indenture to provide for the deposit of the proceeds of the bonds pursuant to the provisions of Arkansas Code Annotated § 15-5-209. The Authority may create and establish one or more special funds in such depositories and make such investment as it may designate to provide for the construction, secure the bonds, establish reserves, and fund other necessary functions or activities authorized by the act.

SECTION 10. REFUNDING BONDS. Bonds may be issued for the purpose of refunding any bonds issued under this act. Refunding bonds may be issued by the Authority pursuant to the provisions of Arkansas Code § 15-5-314.

SECTION 11. No member of the State Building Services Council shall be held personally liable for any act taken by the Council or for any damages sustained by anyone in any contract entered into in carrying out the purposes and intent of this act, unless he (she) shall have acted with a corrupt intent.

SECTION 12. (a) The State Building Services is hereby authorized to supervise and manage the Capitol Mall Facility and the other buildings and facilities acquired pursuant to the authority granted herein and to manage, maintain and repair said buildings and facilities to provide rental space to be made available for the housing of state agencies, departments, boards, commissions and institutions, or other tenants, at such rental rates as deemed necessary:

(i) to provide sufficient funds to enable the Authority to meet, when due, the payment of principal of, interest on, and trustee's and paying agents' fees in connection with all bonds issued under this act;

(ii) to enable the Authority to establish and maintain such reserves, and other financial obligations in regard to the bonds issued under the provisions of this act as shall be set forth in any authorizing resolution or trust indenture utilized for that purpose; and

(iii) in addition thereto, to pay the costs of utilities, insurance, janitorial supplies and services, building maintenance, upkeep, repair, and remodeling as deemed necessary, including the accumulation of reserves deemed necessary for such purposes as authorized under the provisions of this act, and, in connection therewith, the State Building Services may establish one or more accounts in one or more banks authorized to do business in this state to accomplish such purposes.

(b) The State Building Services is hereby authorized to hire legal

counsel of its choice to assist in the administration of this act.

SECTION 13. The following provisions shall apply to the Capitol Mall Facility:

(a) The General Assembly recognizes that the State Building Services has in its possession the original architectural drawings and plans for the construction of the Capitol Mall Facility as developed for and in behalf of the Public Building Authority under the authority of Act 236 of 1973, and the State Building Services is hereby authorized to employ architects to review such plans and to prepare such additional plans, specifications and estimates of costs for the construction of the Capitol Mall Facility as defined herein and the various facilities in connection therewith and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications reviewed, modified and prepared by the architect, it may proceed to advertise for bids and award a contract for the construction of the facility in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage and pay such professional, technical, and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this act.

(b)(1) In the event the provisions of this act are implemented, the following-described lands acquired in the name of the State of Arkansas by the Arkansas Revenue Department Building Commission pursuant to the provisions of Act 151 of 1965 and any laws amendatory thereto, shall be transferred by said commission to the State Building Services, to be held in the name of the State of Arkansas, to be used by the State Building Services for the purposes provided in this act, all of said lands being situated in the City of Little Rock, Pulaski County, Arkansas, to wit:

"A tract of land located in the E 1/2 of S4, T1N, R12W of the 5th Principal Meridian, said tract being located within the limits of the State Office Complex for the State Capitol at Little Rock, Pulaski County, Arkansas, as shown on the map titled Boundary Survey, State Office Complex by Edward G. Smith & Associates dated October 30, 1974, more particularly described as follows:

Commencing at the SW corner of Lot 12, Block 345 of Barton's Subdivision; thence S89 deg. 57'-45W 1430.81 feet to a point; thence North 569.68 feet to the point of beginning; thence West 320.0 feet to a point; thence North 115.0 feet to a point; thence East 320.0 feet to a point; thence South 115.0 feet to the point of beginning, said tract containing .8448 acres more or less."

(2) In the event revenue bonds are issued for the purpose of constructing the Capitol Mall Facility, as defined herein, the State Building Services shall have jurisdiction and control over the following lands, which include the lands described in subsection (1) of this subsection, located on the State Capitol Grounds, to wit:

"A tract of land located in the E 1/2 of S4, T1N, R12W of the 5th

Principal Meridian, said tract being located within the limits of the State Office Complex for the State Capitol at Little Rock, Pulaski County, Arkansas, as shown on the map titled Boundary Survey State Office Complex by Edward G. Smith & Associates dated October 30, 1974. The tract is more particularly described as follows:

Commencing at the SW corner of Lot 12, Block 345 of Barton's Subdivision; thence S89-57-45W 985.81 feet along the North Boundary of 7th Street to point of beginning; thence continuing S-89-57-45W 445.0 feet to a point; thence North 569.68 feet to a point; thence West 320.0 feet to a point; thence North 115.0 feet to a point; thence East 320.0 feet to a point; thence North 692.27 feet to a point on the South Right-of-Way of the Missouri Pacific RR and the North Boundary of the State Office Complex; thence N54-57E 35.83 feet to a point; thence N88-09E 63.5 feet to a point; thence S 01-56E 18.18 feet to a point; thence North 54-55E 83.29 feet to a point on the South Right-of-Way of West 3rd Street being the North Boundary of the State Office Complex; thence S89-29E 783.47 feet along the South Boundary of 3rd Street to a point; thence S 967.54 feet to a point; thence West 380.0 feet to a point; thence North 200.0 feet to a point; thence West 390.0 feet to a point; thence South 300.0 feet to a point; thence East 270.0 feet to a point; thence South 354.39 feet to the point of beginning, said tract containing 24.04 acres more or less."

(3) The State Building Services, on behalf of the State of Arkansas, is hereby granted an easement or license over the State Capitol, the various buildings on the State Capitol grounds, and the State Capitol grounds, for the purpose of installing or relocating utilities, connecting the Capitol Mall Facility to existing structures, and such other purposes necessary and consistent with the Capitol Mall Facility project, as authorized in this act.

(4) Expenses incurred in utility installation or relocation and those directly associated with the connection of the Capitol Mall Facility to existing structures on the State Capitol grounds, shall be paid as a part of the project cost.

(5) Should it be necessary to relocate the cafeteria now located in the State Capitol Building, to connect the Capitol Mall Facility with the State Capitol Building, the Secretary of State may make necessary arrangements for the cafeteria to be temporarily relocated in the State Capitol Building if the area in the Capitol Mall Facility for the cafeteria is not yet completed for its relocation. The cost of relocation of the cafeteria, if the Secretary of State deems the same to be necessary, shall be defrayed from funds appropriated or provided for the operation and support of the Secretary of State's office.

(6) The State Building Services shall coordinate with the affected agencies and the Secretary of State efforts to relocate state agency occupants of existing structures on the State Capitol grounds during construction, into State-owned facilities if available, and to pay any additional rentals for space used to house such state agencies as a part of the cost of the project for the term of the construction of the project

unless funds are otherwise provided by the General Assembly therefor.

(7) The granite boulder placed June 15, 1936, in celebration of the State's centennial, and the bauxite boulder placed March 1943, honoring the State's contribution to the World War II effort, now located on the site of the proposed Capitol Mall Facility, shall be relocated by the State Building Services to such other areas or sites as may be designated by the Secretary of State. Costs of relocating these monuments shall be considered a cost of the project unless funds are otherwise provided for such purposes.

(c) The State Building Services is hereby authorized to:

(1) acquire from the Employment Security Division of the Department of Labor any title and interest in the building it now has or may hereafter acquire, located on the State Capitol grounds, known as the "Employment Security Building", in exchange for which the Employment Security Division may be granted an advance rental payment credit in an amount to be determined by the value of the building, reduce the division's rental payment for occupancy in the Capitol Mall Facility, or,

(2) purchase, on behalf of the State of Arkansas, from the Employment Security Division the building on the State Capitol grounds at a price agreed to by the parties involved. If the building is purchased by the State Building Services, then no relocation costs shall be paid to the Employment Security Division.

As evidence of this transfer, the Director of the Department of Labor is hereby authorized to execute any instrument or conveyance or contract as the Attorney General of the State of Arkansas shall deem necessary.

(d)(1) The State Building Services is hereby authorized to lease additional temporary parking areas near the State Capitol Building during the construction phase of the Capitol Mall Facility project and to provide and operate, if necessary, one or more shuttle buses between such parking areas and the State Capitol grounds. The State Highway and Transportation Department shall assist the State Building Services in ground preparation and surfacing of additional temporary parking spaces as authorized in this act.

(2) Upon completion of the construction phase of the Capitol Mall Facility project, the State Building Services shall develop parking regulations which will maintain equitable parking among the tenants of the Capitol Mall Facility and the public, and may establish reasonable rental or other charges for parking therein. The State Capitol Police shall provide the necessary traffic patrols and policing of the Capitol Mall Facility parking areas.

(3) The State Building Services is hereby authorized to negotiate with any state agency or department now occupying existing structures on the site of the Capitol Mall Facility and to provide for the relocation of the agency or department during the construction of the Capitol Mall Facility, or may provide compensation for the existing structure(s) should acquisition of the structure(s) be necessary in connection with

the project. The compensation paid for acquisition of existing structure(s) must be submitted to and approved by the Governor and the same shall constitute a cost of the Capitol Mall Facility project.

(4) The State Building Services, shall, prior to the beginning of the project, develop a proposed master plan of housing state agencies and departments within the facilities of the Capitol Mall project, and shall recommend in such plan the priorities by which space is to be provided for rental by state agencies and departments identified in the plan, and shall submit such plan, together with the recommended schedule of rental payments deemed necessary by the State Building Services to defray the cost of the project on a year-to-year basis, to the Governor for his review and approval, and shall submit a copy thereof to the Legislative Council for its information and review. Upon receipt of such proposed plan the Governor shall review the same and may make such changes therein, including the priorities in providing space for state agencies and departments, as he deems appropriate, and shall endorse his approval thereon.

It is the intent of this subsection that the Governor shall determine the needs and priorities for locating or relocating state agencies and departments into space in the Capitol Mall project facilities. After the proposed plan is approved by the Governor, the State Building Services shall confer from time to time with the Governor in connection with priorities in the location or relocation of state agencies and departments in said Facility.

(e) In furtherance of the construction of the Capitol Mall Facility as authorized in subsection (a) of Section 3, State Building Services is authorized to enter into agreements with the respective Boards of Trustees of the Arkansas Teacher Retirement System, the Arkansas Public Employees Retirement System, and the Arkansas State Police Retirement System for the construction of a building which shall be a portion of the building identified as Building No. 1 contained in the "Facilities — Master Plan — Year 1985" on page 79 of the Arkansas State Capitol Complex Master Plan as defined in subsection (c) of Section 2, deemed adequate for the office space needs of their respective retirement systems for current and anticipated future expansion, provided that:

(1) such facilities shall be constructed by the State Building Services in accordance with a contract entered into by the State Building Services Council and the Boards of Trustees of the respective retirement systems setting forth the square footage of space to be allocated to and owned by the respective retirement systems upon completion of this project, with the cost thereof to be defrayed by each of the retirement systems in such manner and under such terms and conditions as may be agreed to by the respective retirement systems and the State Building Services Council;

(2) the agreement provides that the facilities shall, during construction and upon completion thereof, be managed by State Building Services in accordance with the provisions of section 22-2-101 and

subsequent sections of the Arkansas Code;

(3) to manage and rent any surplus space that each of the retirement systems may designate for lease to other state agencies under such terms and conditions, and for such duration, that may be agreed to by the respective retirement systems and State Building Services, with all rental income over and above management costs defrayed by State Building Services to be remitted to the respective retirement systems as income to each of the respective systems.

(4) such respective retirement systems may utilize funds available to them for investment purposes for payment to the State Building Services for the cost of construction of the facilities authorized in this subsection, in which event the construction cost of the facilities acquired for the respective retirement systems may be amortized in accordance with the amortization plan for funding their retirement systems, but in no event extending over a period exceeding forty (40) years. The respective retirement systems shall enter into agreements with State Building Services to pay all costs of maintenance, janitorial, and other services as operating expenses for the use of the facilities assigned to the respective retirement systems.

SECTION 14. From and after the effective date of this act, no new buildings or facilities to provide office space for State Agencies shall be constructed on the State Capitol grounds unless the same are part of and in conformance with the Capitol Mall Facilities — Master Plan — Year 1985 on page 79 of the Arkansas State Capitol Complex Master Plan as prepared under the direction of the Arkansas Public Building Authority authorized by Act 236 of 1973, dated June 1974, or as contained in such plan as expanded in the Proposed Facilities Master Plan — Year 2000 on page 80 of said Arkansas State Capitol Complex Master Plan. Nothing in this act shall restrict or prohibit the construction of surface parking or parking decks on the State Capitol grounds, provided that parking facilities shall be constructed in areas now utilized as parking or designated as parking on the Arkansas State Capitol Complex Master Plan — Year 1985 or in accordance with the Facilities Master Plan — Year 2000 as prepared by the Arkansas Public Building Authority.

SECTION 15. This act shall not create any right in any bondholder for bonds issued pursuant to this act, and no right of such bondholder shall arise under it, until bonds authorized by this act (of the initial issue or series) shall have been sold and delivered by the Authority.

SECTION 16. This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

SECTION 17. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 18. If any provision of this act or the application thereof to

any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 19. All laws and parts of laws in conflict with this act are hereby repealed. APPROVED: February 25, 1991.

13. DEPARTMENT OF HEALTH BUILDING EXPANSION ACT OF 1991 — ACTS
1991, No. 1162.

SECTION 1. This act shall be known as the “Department of Health Building Expansion Act of 1991.”

SECTION 2. As used in this act:

- (1) “Authority” means the Arkansas Development Finance Authority;
- (2) “Authorizing resolution” means the resolution or resolutions adopted by the board authorizing the loan;
- (3) “Board” means the State Board of Health of the State of Arkansas;
- (4) “Building” means the State Department of Health Building, located on West Markham Street in Little Rock, Arkansas, including the expansion;
- (5) “Construction Fund” means the State Board of Health 1991 Building Expansion Construction Fund created pursuant to this act;
- (6) “Director” or “State Health Officer” means the Director of the Arkansas Department of Health;
- (7) “Construct” or “or construction” means to acquire, construct, reconstruct, remodel, install and equip any lands, building, structures, improvements or other property, real, personal or mixed, useful in connection with the expansion and to make other necessary expenditures in connection therewith, by such methods and in such manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory or technical nature by such method as the board or the director shall determine to be necessary or desirable to accomplish the power, purposes and authorities set forth in this act and without regard to the provisions of other laws pertaining to the construction and acquisition of property by state agencies. The term also includes payment or provision for expenses incidental thereto;
- (8) “Expansion” means the expansion and improvement of the building as provided for herein, including the renovation and alteration of existing properties, real, personal or mixed;
- (9) “Fees” means all fees set forth in Ark. Code Ann. 20-7-123, which fees are confirmed and ratified by this act;
- (10) “Fee revenues” means all revenues derived from all or any of the fees;
- (11) “Loan” means the loan which the board is authorized to effect, from the authority, by the terms of this act;
- (12) “Revenue Fund” means the State Board of Health Fee Revenue

Fund created pursuant to this act;

(13) "Revenue Loan Fund" means the State Board of Health Fee Revenue Loan Fund created pursuant to this act.

SECTION 3. (a) The expansion shall be constructed. The board is authorized to approve the construction of the expansion and to take such action as may be appropriate to the completion of the expansion and any facilities necessarily related thereto.

(b) Subject to the approval of the board, the plans, specifications and estimates of cost for the expansion shall be approved by the director, and the director is authorized to employ such architects and such other like professional and technical assistance as determined to be necessary for the construction of the expansion.

(c) The board and the director are authorized to take such action as may be appropriate for the construction of the expansion and to the accomplishment of the purposes of this act and may engage such legal, technical and other assistance as determined to be necessary to the construction of the expansion, the effecting of the loan and the accomplishment of the purposes of this act.

SECTION 4. (a) To finance to construction of the expansion, the board is authorized to enter into a loan, from the authority, in the principal amount of not more than six million five hundred thousand dollars (\$6,500,000), pursuant to Arkansas Code of 1987 Annotated, Title 15, Chapter 5. The amount and purpose of the loan shall be approved by the board in an authorizing resolution, copies of which shall be maintained in the records of the board and of the authority.

(b) The loan shall bear interest at a rate determined by the rate of interest on funds borrowed by the authority to fund the loan, but not to exceed the lesser of ten percent (10%) per annum or the maximum rate of interest permitted by Amendment No. 60 to the Arkansas Constitution.

(c) The loan shall mature over a period of not more than thirty (30) years.

(d) The board and the director are authorized to execute and deliver such agreements, instruments and other undertakings and writings and to take such action as may be appropriate to evidence the loan and the security therefor and to carry out the purposes of this act.

SECTION 5. The payment and other obligations of the board under and with respect to the loan shall be secured by a pledge of the fee revenues, subject to the terms of this act and the reserved power to release fee revenues as set forth in this act. The loan shall be an obligation of the board only and shall not constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged. The loan shall not be secured by a lien on any land, building or other property belonging to the State of Arkansas. The loan shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation.

SECTION 6. The fees set forth in Ark. Code Ann. 20-7-123, which are the "fees" for all purposes of this act, are hereby confirmed and ratified.

SECTION 7. (a) Commencing July 1, 1991, and so long as the loan is outstanding, all fee revenues shall be treated as cash funds and shall not be deposited in the State Treasury, except as set forth in this act, but shall be deposited, as and when received, in a bank or banks approved by the board or the director, in an account or accounts of the board designated "State Board of Health Fee Revenue Fund." All moneys in the Revenue Fund shall, commencing on the date set forth above and so long as the loan is outstanding, shall not be subject to the provisions of Arkansas Code of 1987 Annotated 19-4-801 through 806 and shall be deposited, handled and disbursed as set forth in this act.

(b) Moneys held in the Revenue Fund shall, no less frequently than bimonthly, be withdrawn therefrom and deposited as follows and in the following order of priority:

(1) An annual amount sufficient to provide for principal, interest, servicing fees (if any) and reserve requirements with respect to the loan, but not to exceed the sum of six hundred and fifty thousand dollars (\$650,000) per fiscal year:

(A) prior to the commencement of the loan, in the Construction Fund;
or

(B) beginning upon commencement of the loan, in an account or accounts of the board, in a bank or banks approved by the board or the director, designated "State Board of Health Fee Revenue Loan Fund";

(2) the sum of nine hundred thousand dollars (\$900,000) per fiscal year to the Public Health Fund;

(3) the sum of six hundred thousand (\$600,000) per fiscal year to the State Health Building and Local Grant Trust Fund;

(4) any balance remaining shall be distributed fifty percent (50%) to the Public Health Fund and fifty percent (50%) to the State Health Building and Local Grant Trust Fund.

(c) Commencing July 1, 1991, and so long as the loan shall be outstanding, all funds held in the Revenue Fund, the Revenue Loan Fund and the Construction Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be transferred, deposited and applied, as set forth herein, without the necessity of appropriation. All transfers from the Revenue Fund and the Construction Fund shall be made by the director. All transfers from the Revenue Loan Fund shall be made by the director or, with the approval of the director or the board, the authority.

(d) So long as the loan is outstanding, funds held in the Revenue Loan Fund shall be used solely for the purpose of paying and providing for principal of, interest on and servicing fees, if any, in connection with the loan and providing for the creation and maintenance of necessary reserves.

(e) So long as the loan is outstanding, all fees shall be imposed and all fee revenues shall be collected and applied as provided in this act; provided, however, particular fees may be reduced or eliminated so long as remaining fees are increased or new fees are added to the end that the aggregate annual amount of fee revenues shall always equal at

least nine hundred thousand dollars (\$900,000).

SECTION 8. The proceeds of the loan, other than amounts required to establish required reserves, to pay interest on the loan for a period not to exceed one (1) year or to pay costs of the loan (all of which shall be set forth in written directions executed by the director) shall be deposited, as cash funds, in an account of the board designated "State Board of Health 1991 Building Expansion Construction Fund" and disbursed by the director for the construction of the expansion.

SECTION 9. All moneys held at any time in the Revenue Fund, the Revenue Loan Fund and the Construction Fund shall, to the extent feasible, be invested and reinvested, as directed by the director, in direct obligations of or obligations fully guaranteed by the United States of America ("Government Obligations") or, with the approval of the authority, in mutual funds composed entirely of Government Obligations.

SECTION 10. The authorizing resolution, and each agreement or other writing executed and delivered pursuant to it or this act, together with this act, shall constitute a contract between the board and the authority, and the obligations of the board may be enforced by mandamus or other equitable or legal remedy. The obligations of the board shall be freely assignable by the authority, provided that the board is notified in writing of any such assignment.

SECTION 11. Neither the director nor any member of the board shall be personally liable on the loan or on account of any of the obligations or action undertaken in connection therewith or for any damages sustained by anyone with respect to any such obligations or action, unless he or she shall have acted with a corrupt intent.

SECTION 12. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 14. All laws and parts of laws in conflict herewith, including, without limiting the generality of the foregoing, Act 469 of 1965 (other than Section 10 thereof), Act 686 of 1977 and Ark. Code Ann. 20-7-203(c), are hereby repealed to the extent of such conflict.

SECTION 15. It is hereby found and determined by the General Assembly that the Arkansas Department of Health is critically in need of additional space and that, accordingly, the expansion, which is authorized and enabled by this act, must be constructed as soon as feasible. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

14. 1995 NEW REVENUE DIVISION BUILDING ACT — ACTS 1995, NO. 725, AS
AMENDED BY ACTS 1997, NO. 250.

SECTION 1. This act may be referred to and cited as the “1995 New Revenue Division Building Act.”

SECTION 2. Section 7(c) of Act 749 of the General Assembly of the State of Arkansas for the year 1977, is hereby amended to read as follows:

“(c) After the principal of, premiums, if any, and interest on all bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund and in the Bond Fund and all moneys received from the fees shall be deposited in the 1995 New Revenue Division Building Fund created by the 1995 New Revenue Division Building Act for payment of bonds to be issued pursuant to the 1995 New Revenue Division Building Act.”

SECTION 3. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) “Act No. 38” means Act No. 38 of the First Extraordinary Session of the General Assembly of the State of Arkansas for the year 1961, approved September 8, 1961, as amended.

(b) “Act No. 749” means Act No. 749 of the General Assembly of the State of Arkansas for the year 1977, as originally approved March 27, 1977.

(c) “Agency” or “Agencies” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

(d) “Arkansas Development Finance Authority Act” means Act 1062 of the General Assembly of the State of Arkansas for the year 1985, approved May 1, 1985, as amended.

(e) “Authority” means the Arkansas Development Finance Authority.

(f) “Bonds” means any bonds and any series of bonds authorized by and issued pursuant to the provisions of this act.

(g) “Buildings” means the Joel Y. Ledbetter Revenue Department Building constructed and financed under the provisions of Act No. 38 and Act No. 749, any additional buildings previously constructed pursuant to the provisions of Acts No. 38 or 749, and any additional building or buildings or improvements or additions to be constructed for use by the department and authorized pursuant to the provisions of this act.

(h) “Commission” means the Arkansas Revenue Department Building Commission, established by Act No. 38.

(i) “Construct” means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the buildings, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the commission shall determine to be necessary or desirable to accomplish the authorities, powers and purposes set forth in this act. This act shall be the sole authority needed and it shall not be necessary to comply with other

laws pertaining to the acquiring, constructing and equipping of public buildings.

(j) "Department" means the Department of Finance and Administration of the State of Arkansas, or any successor agency.

(k) "Division" means the Revenue Division of the department.

(l) "Expansion" means additional buildings, extensions, or improvements to the buildings, appropriate remodeling of and improvements to the buildings, and appropriate equipment and furnishings for use in the buildings, all as determined by the commission for the principle use of the department.

(m) "Fee Revenues" means all revenues derived from the fees.

(n) "Fees" means the fees provided for in Arkansas Code Section 27-14-602 which have been previously imposed and are paid to or for the benefit of the commission.

(o) "Loans" means one or more loans from the authority to the commission used to construct the expansion as permitted in Section 9 hereof.

(p) "Pledged Revenues" means all revenues authorized by Section 10 of this act to be pledged for the security and payment of the loans and the bonds, being fee revenues and gross revenues derived from leasing or rental of space in the buildings.

SECTION 4. In addition to authorities, powers and purposes otherwise set forth in this act in Act No. 38 and in Act No. 749, the Arkansas Revenue Department Building Commission is hereby authorized and empowered to:

(a) Construct the expansion.

(b) Arrange for the housing in the buildings and the expansion of the division and other offices of the department and other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rents and charges, if any, as the commission may determine.

(c) Construct parking facilities related to the buildings or the expansion.

(d) Obtain the necessary funds for accomplishing its authorities, powers and purposes through loans from the authority or from other appropriate sources.

(e) Purchase, lease or rent and receive bequests or donations of, or otherwise acquire and sell, trade or barter, any property (real, personal or mixed) and convert into money and/or other property and property not needed or which cannot be used in its then current form.

(f) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys and property from the Government of the United States or of any state, political subdivision or agency or from any public or private corporation, agency or organization of any nature, or from any individual.

(i) Invest and reinvest any of its moneys not required for immediate use, including proceeds from the sale of any bonds, in such manner as the commission shall determine, subject to any agreement with the authority or with bondholders stated in the authorizing resolution or trust indenture relating to such bonds.

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities, powers and purposes conferred by this act and to carry out the intent of this act.

SECTION 5. (a) In addition to the authorities, powers and purposes conferred by this act, the authorities, powers and purposes conferred by, and the provisions of Act No. 38 and Act. No. 749, except as they may be inconsistent with any of the provisions of this act, are hereby confirmed, ratified, continued and reenacted, including, without limitation, the provisions of Act No. 38 and Act No. 749 pertaining to organization of the commission, and meetings of the commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

(b) This act shall constitute the sole authority necessary for the accomplishment of the authorities, powers and purposes of this act. The authorities, powers and purposes of this act may be exercised by or on behalf of the commission without necessity of approval by any other branch, department, agency, or officer of the State of Arkansas, and without compliance with any other act or law pertaining to such authorities, powers and purposes.

SECTION 6. The buildings and the expansion, after completion, shall house all or such part of the division and the department as the commission shall determine. In addition, the buildings and expansion may house such other agencies as space and facilities will permit from time to time, as determined by the commission.

SECTION 7. Ark. Code Ann. § 27-14-606 is amended to read as follows:

“(a) All fees collected under § 27-14-602 shall be deposited in the 1995 New Revenue Division Building Fund as cash funds and shall be used for the repayment of bonds which may be issued by or for the benefit of the Arkansas Revenue Department Building Commission pursuant to the 1995 New Revenue Division Building Act.

(b) All fees collected by the circuit clerk and recorder as required by this chapter shall not be affected by the provisions of this section.”

SECTION 8. (a) Fee Revenues, as and when received by the commission, are hereby declared to be cash funds of the commission, and shall not be deposited in the Treasury, but shall be deposited in a bank or banks, as determined by the commission. The Fee Revenues shall be collected and applied as in this act provided until the principal of, premiums, if any, and interest on all loans from the authority and bonds issued under this act shall be paid or the required provision made for their payment; provided, however, particular fees may be varied as to amount or new fees substituted or added so long as there is no reduction in gross Fee Revenues that would have been collected had there been no

such change, substitution or addition, and the term "Fee Revenues" includes the revenues derived from all such fees.

(b) There is hereby created a fund which shall be designated "1995 New Revenue Division Building Fund" (the "Building Fund") which shall be maintained by the commission in such depository bank or banks as may from time to time be designated by the commission. Commencing on the effective date of this act, there shall be deposited into the Building Fund all moneys received by the commission from any other source whatever, including, without limitation, fee revenues and revenues derived from leasing or renting of space in the buildings or the expansion, subject however, to any prior pledge of such Fee Revenues by the commission for the payment of previously issued bonds.

(c) All moneys in the Building Fund shall be used solely, and in the order of priority, as follows:

(1) To provide for payment of debt service on all loans from the authority and bonds issued under this act, and to fund any other fund or account created pursuant to the authorizing resolution or trust indenture relating to any such loans or bonds.

(2) Any funds deposited in the Building Fund and not required in any fiscal year to be applied to any loans or series of bonds pursuant to Section 8(c)(1) may be withdrawn from the Building Fund and deposited in the State Treasury (and there credited to the Constitutional and Fiscal Agencies Fund).

(3) All loans or bonds issued pursuant to the provisions of this act shall rank on a parity of security as to the amounts deposited in the Building Fund.

(d) After the principal of, premiums, if any, and interest on all loans or bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund, and in any fund established with respect to any series of bonds, and all moneys received from the fees shall be deposited in the State Treasury, as special revenues, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 9. (a) The commission is hereby authorized and empowered to cooperate and contract with the authority to cause the authority to issue bonds, at one time or in series from time to time, and to loan the net proceeds of such bonds to the commission to enable the commission to use such proceeds thereof, together with any other available funds, for defraying the costs of constructing the expansion together with all expenses incidental to and reasonably necessary in connection therewith. The commission is authorized to negotiate the repayment of the loans on such terms and conditions as are mutually acceptable to the commission and the authority. The commission is specifically authorized and permitted to pledge and assign to the authority, to secure repayment of the loans and the bonds, the fee revenues and revenues from leasing space in the buildings and the expansion.

(b) The bonds shall be issued by the authority under and subject to the Arkansas Development Finance Authority Act, which shall govern

the terms, provisions and manner of issuance of such bonds.

SECTION 10. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds authorized under this act may be secured by a pledge of and lien on the loan repayment obligation of the commission to include its pledge of the Fee Revenues and the gross revenues derived from the leasing or renting to others of space in the buildings and the expansion.

SECTION 11. All agencies are hereby expressly authorized to execute and enter into agreements with the commission for the leasing or renting of space in the buildings and the expansion when there is space therein over and above the requirements of the department and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the commission and the agency involved to be appropriate and in the best interests of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency performing the functions exercised by the agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity. Neither the commission nor any agency shall be required to obtain the approval of or consent to any such lease from Arkansas State Building Services. In its discretion, the commission may consult or contract with State Building Services in such leasing activities.

SECTION 12. Each loan agreement, note, authorizing resolution or trust indenture shall, together with this act, constitute a contract by and between the authority, the commission and the holders and registered owners of the bonds authorized hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof and the covenants, agreements and obligations of the authority and the commission may be enforced by mandamus or other appropriate proceedings of law or in equity.

SECTION 13. The commission is hereby authorized to employ architects to prepare plans, specifications and estimates of cost for the construction of the expansion and to supervise and inspect such construction. In addition, the commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the authorities, powers and purposes conferred and imposed by this act. The commission shall consult with State Building Services with respect to the construction of the expansion.

SECTION 14. This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 15. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 17. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 18. EMERGENCY. It is hereby found and determined by the General Assembly that since 1977 tax collection, driver's services, motor vehicle registration and other duties imposed by law upon the Revenue Division have substantially increased; that the building housing the Revenue Division of the Department of Finance and Administration is no longer adequate to allow the Revenue Division to properly and efficiently to carry out its functions and duties; that services provided to taxpayers may be improved and expanded with the construction and use of an additional building; and, that this act is designed to alleviate the stated problems. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval. APPROVED: March 21, 1995.

15. HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS — ACTS 1995, No. 1007.

SECTION 1. TITLE; LEGISLATIVE FINDINGS. (a) This Act may be referred to and cited as the "Arkansas Highway General Obligation Bond Act of 1995."

(b) The General Assembly of the State of Arkansas has determined that there is an immediate need for new highways and highway improvements throughout the State of Arkansas in order to provide for the health, safety and welfare of its citizens and others and to promote economic development within the state. The General Assembly has determined that current funding sources for highway construction and improvements are inadequate to meet the needs of the state and that the best way to accomplish such improvements expeditiously is through the issuance of general obligation bonds to finance highway construction and improvements.

SECTION 2. DEFINITIONS. The following terms, as used in this Act, shall have the meanings set forth in this section:

(a) "Act" shall mean this Arkansas Highway General Obligation Bond Act of 1995.

(b) "Bonds" shall mean the State of Arkansas Highway Construction and Improvement General Obligation Bonds, as authorized herein.

(c) “Chief Fiscal Officer” shall mean the Director of the Department of Finance and Administration.

(d) “Commission” shall mean the Arkansas State Highway Commission, created and existing pursuant to Amendment 42 to the Constitution of the State of Arkansas.

(e) “Debt service” shall mean all amounts required for the payment of principal of, interest on, and premium, if any, due with respect to the bonds in any fiscal year, along with all associated costs, including, without limitation, the fees and costs of paying agents and trustees, and remarketing agent fees.

(f) “Designated tax revenues” shall mean

(1) portions of taxes collected pursuant to Ark. Code Ann. § 26-57-1101, et seq;

(2) taxes collected pursuant to Ark. Code Ann. §§ 26-52-302(c) and 26-53-107(c);

(3) portions of taxes collected pursuant to Ark. Code Ann. § 26-56-201(e), if approved;

(4) revenues derived from economic growth within Arkansas which is a direct result of highway improvements which are financed by the bonds issued pursuant to this Act; or,

(5) any other fees or taxes which are dedicated to the repayment of the bonds, including but not limited to toll road fees and right-of-way lease revenues.

(g) “Highway improvements” shall mean improvements to any of the roadways, bridges, tunnels, rights-of-way, and other capital improvements and facilities appurtenant or pertaining thereto, including costs of acquisition and construction. Highway improvements shall also include the maintenance of highway improvements constructed with proceeds of the bonds.

SECTION 3. AUTHORIZATION; PURPOSES. The Arkansas State Highway Commission is hereby authorized, subject to the approval of the voters at a state-wide election pursuant to Amendment 20 to the Constitution of the State of Arkansas, to issue the bonds in a total principal amount not to exceed three billion five hundred million dollars (\$3,500,000,000) for the purposes of (i) accelerating highway improvements in progress or scheduled as of January 1, 1995, (ii) funding new highway improvements not in progress or scheduled as of January 1, 1995, (iii) providing matching funds in connection with federal highway programs, and (iv) paying the costs of issuance of the bonds. The bonds may be issued in one or more series at such times, in such amounts, and bearing such designations as the Commission in consultation with the Chief Fiscal Officer of the State shall determine pursuant to Section 6 hereof.

SECTION 4. IMPROVEMENTS TO BE FINANCED. At least ninety (90) days prior to the calling of an election as set forth in Section 5 hereof, the Commission shall prepare and distribute to the Governor and the Legislative Council a report setting forth in general terms the highway improvements which would be financed if all of the authorized

bonds were to be issued and the estimated cost of each highway improvement. Upon receipt of the report described in the preceding sentence, the Governor, after obtaining the advice of the Legislative Council and in accordance with the provisions of Amendments 20 and 42 to the Arkansas Constitution, shall, if he deems it to be in the public interest, by proclamation call an election on the question of issuing the bonds.

SECTION 5. ELECTION. (a) No bonds shall be issued under this Act unless the issuance of bonds has been approved by a majority of the qualified electors of the state voting on the question at a state-wide election called by proclamation of the Governor. Such election may be in conjunction with a general election or it may be a special election. Notice of such election shall be published by the Secretary of State in a newspaper of general circulation in the state at least thirty (30) days prior to such election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to such election.

(b) It shall not be necessary, in the case of the notice or proclamation for the election, to publish this Act in its entirety, but the notice or proclamation shall state that the election is to be held for the purpose of submitting to the people the following proposition, in substantially the form set forth herein:

“Authorizing the Arkansas State Highway Commission to issue State of Arkansas Highway Construction and Improvement General Obligation Bonds (the “Bonds”) in a total principal amount not to exceed \$3,500,000,000. If approved, such Bonds will be issued in series of various principal amounts from time to time for the purpose of paying the cost of highway construction and improvements in the State of Arkansas. The Bonds shall be issued pursuant to the authority of and the terms set forth in Amendment 20 to the Arkansas Constitution and the Arkansas Highway General Obligation Bond Act of 1995 (the “Act”).

The Bonds shall be general obligations of the State of Arkansas, secured by and payable from the general revenues of the State. The Bonds will be payable first from certain designated revenues, specifically: portions of the proceeds of a five cent per gallon increase in the excise tax on distillate special fuels (diesel and other related products), if such tax increase is approved by the voters, revenues derived from an additional one-half of one percent ($\frac{1}{2}$ of 1%) excise tax on gross proceeds or gross receipts (sales tax) and from an additional one-half of one percent ($\frac{1}{2}$ of 1%) compensating excise tax (use tax), portions of the proceeds of a wholesale excise tax at the rate of six and one-half percent on motor fuel (gasoline and related products); revenues derived from economic growth directly attributable to highway improvements financed by the bonds; and any other revenues designated by the General Assembly for such purpose.

The wholesale excise tax on motor fuel, the sales tax and the use tax have already been levied, but such taxes will not be collected unless the bonds are hereby approved by the voters. If the bonds are hereby

approved, the wholesale excise tax on motor fuel, the sales tax and the use tax will be collected so long as the bonds are outstanding. If the bonds are not hereby approved, such taxes will not be collected. The excise tax of five cents per gallon on distillate special fuels is being submitted to the voters for their approval elsewhere on this ballot.”

(c) The ballot title and the proposition set forth in Section 5(b) shall be submitted by the Secretary of State to the Attorney General for approval in substantially the following form:

“ISSUANCE OF \$3,500,000,000 STATE OF ARKANSAS HIGHWAY
CONSTRUCTION AND IMPROVEMENT GENERAL OBLIGATION
BONDS”

On each ballot there shall be printed the title, the proposition set forth in Section 5(b) hereof, and the following:

“For issuance of State of Arkansas Highway Construction and Improvement General Obligation Bonds in an amount not to exceed \$3,500,000,000 ... []”

“Against issuance of State of Arkansas Highway Construction and Improvement General Obligation Bonds in an amount not to exceed \$3,500,000,000 ... []”

(d) The county boards of election commissioners in each of the several counties of the state shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as is required by the laws of the state. The vote shall be canvassed and the result thereof declared in each county by such boards. The results shall, within ten (10) days after the date of the election, be certified by such county boards to the Secretary of State, who shall forthwith tabulate all returns so received and certify to the Governor the total vote for and against the proposition submitted pursuant to this Act.

(e) The result of the election shall be proclaimed by the Governor by the publication of such proclamation one (1) time in a newspaper of general circulation in the State of Arkansas, and the results as proclaimed shall be conclusive unless a complaint challenging the election results is filed within thirty (30) days after the date of such publication in the chancery court of Pulaski County.

(f) If a majority of the qualified electors voting on the proposition vote in favor of the issuance of the bonds, then the Commission shall proceed with the issuance of bonds in the manner and on the terms set forth in this Act. If a majority of the qualified electors voting on the proposition vote against the issuance of the bonds, none of the bonds authorized by this Act shall be issued. One subsequent election may be called by the Governor if the proposition fails, but such subsequent election may be held no earlier than six (6) months after the preceding election, but no later than December 31, 1996.

SECTION 6. PROCEDURE FOR ISSUING BONDS. Prior to the

issuance of any series of bonds, the following actions shall be taken:

(a) The Commission shall, in consultation with the Chief Fiscal Officer, determine the estimated amount of designated tax revenues to be collected by the state in the remainder of the then current fiscal biennium. The estimated amount of designated tax revenues shall be reported to the Governor.

(b) The Commission shall present a report to the Governor and the Legislative Council, setting forth the specific highway improvements to be financed with the proceeds of such series of bonds, the estimated cost of each of the highway improvements, the amount of bonds necessary to finance such highway improvements, and the estimated amount of debt service required to pay the bonds.

(c) Upon receipt of the reports described in Sections 6(a) and 6(b) hereof, the Governor shall, if he and the Commission determine that the estimated designated tax revenues and any other revenues appropriated by the General Assembly for repayment of bonds will be sufficient to pay debt service on such series of bonds, by proclamation authorize the Commission to proceed with the issuance of such series of bonds.

(d) Once the Governor has issued his proclamation with respect to one or more series of bonds, the Commission shall adopt a resolution authorizing the issuance of such bonds. Each such resolution shall contain such terms, covenants, and conditions as are deemed desirable and consistent with this Act, including, without limitation, those pertaining to the establishment and maintenance of funds and accounts, the deposit and investment of tax collections and of bond proceeds, and the rights and obligations of the state, its officers and officials, the Commission, and the registered owners of the bonds. The resolutions of the Commission may provide for the execution and delivery by the Commission of a trust indenture or trust indentures, with one or more banks or trust companies located within or without the state, containing any of the terms, covenants, and conditions referred to above and other terms and conditions deemed necessary by the Commission, which trust indenture or trust indentures shall be binding upon the Commission and the State, and their respective officers and officials.

SECTION 7. TERMS OF BONDS. The bonds shall be subject to the following terms and conditions:

(a) The bonds shall be issued in series, as set forth herein, in amounts sufficient to finance all or part of the costs of highway improvements described in Section 4 hereof, with the respective series to be designated by the year in which issued and, if more than one series is to be issued in a particular year, by alphabetical designation.

(b) The bonds of each series shall have such date or dates as the Commission shall determine and shall mature, or be subject to mandatory sinking fund redemption, over a period ending not later than thirty (30) years after the date of issue of each series.

(c) The bonds of each series shall bear interest at the rate or rates

determined by the Commission at the sale of the bonds. The bonds may bear interest at either a fixed or a variable rate, or may be convertible from one interest rate mode to another, and such interest shall be payable at such times as the Commission shall determine.

(d) The bonds shall be issued in the form of bonds registered as to both principal and interest without coupons; may be in such denominations; may be made exchangeable for bonds of another form or denomination, bearing the same rate of interest; may be made payable at such places within or without the state; may be made subject to redemption prior to maturity in such manner and for such redemption prices; and may contain such other terms and conditions, all as the Commission shall determine.

(e) Each bond shall be executed with the facsimile signatures of the Governor, the Chairman of the Commission, and the Treasurer of the State of Arkansas, and shall have affixed or imprinted thereon the Great Seal of the State of Arkansas. Delivery of the bonds so executed shall be valid, notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

SECTION 8. SALE OF BONDS. (a) The bonds may be sold in such manner, either at private or public sale, and upon such terms as the Commission shall determine to be reasonable and expedient for effecting the purposes of this Act. The bonds may be sold at a price acceptable to the Commission, which price may include a discount or a premium.

(b) If the bonds are to be sold at public sale, the Commission shall give notice of the offering of such bonds in a manner reasonably designed to notify the public finance industry that such offering is being made. The Commission shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(c) The Commission is authorized to structure the sale of bonds utilizing such financing techniques as are recommended by its professional advisors in order to take advantage of market conditions and obtain the most favorable interest rates consistent with the purposes of this Act. In furtherance of this authorization, the Commission may enter into such ancillary agreements in connection with the sale of the bonds as it deems necessary and advisable, including, without limitation, bond purchase agreements, remarketing agreements, and letter of credit and reimbursement agreements.

SECTION 9. EMPLOYMENT OF PROFESSIONALS. The Commission is authorized to retain such professionals as it deems necessary to accomplish the issuance and sale of the bonds, including, without limitation, legal counsel, financial advisors, underwriters, trustees, paying agents and remarketing agents.

SECTION 10. INVESTMENT OF PROCEEDS. The proceeds from the issuance of the bonds shall, prior to expenditure of such proceeds for the purposes described in this Act, be held, maintained, and invested by the trustee as set forth in a resolution of the Commission or as set forth in any trust indenture securing the bonds.

SECTION 11. GENERAL OBLIGATION. (a) All bonds issued under

this Act shall be direct general obligations of the State of Arkansas, for the payment of the debt service on which the full faith and credit of the State of Arkansas are hereby irrevocably pledged so long as the bonds are outstanding. The bonds shall be payable from the 1995 Arkansas Highway Construction and Improvement Bond Account and general revenues of the state as that term is defined in the Revenue Stabilization Law of Arkansas, Ark. Code Ann. § 19-5-101 et seq., and such amount of general revenues as is necessary is hereby pledged to the payment of debt service on the bonds, and shall be and remain pledged for those purposes.

(b) This Act shall constitute a contract between the State of Arkansas and the registered owners of all bonds issued hereunder which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, may be enjoined by the Chancery Court of Pulaski County upon the complaint of any bond owner or any taxpayer. The court shall, in any suit against the Commission, the State Treasurer, or other appropriate officer or official of the state, prevent a diversion of any funds pledged in accordance with this Act and shall compel the restoration of diverted funds, by injunction or mandamus. Also, and without limitation as to any other appropriate remedy at law or in equity, any bond owner may, by an appropriate action, including, without limitation, injunction or mandamus, compel the performance of all covenants and obligation of the State, its officers and officials, hereunder.

(c) This Act shall not create any right of any character with respect to the bonds and no right of any character with respect to the bonds shall arise under or pursuant to it, unless and until the first series of bonds authorized by this Act shall have been sold and delivered.

SECTION 12. SOURCES OF REPAYMENT. (a) Without in any way limiting the general obligation of the State of Arkansas to repay the bonds, the designated tax revenues (as such term is defined in Section 2 hereof) are hereby specifically pledged to the payment of the debt service on the bonds.

(b) Pursuant to certain acts of the 80th General Assembly, the State Treasurer has been authorized to establish in the State Highway and Transportation Department Fund a special account, known as the "1995 Arkansas Highway Construction and Improvement Bond Account," and shall deposit therein all designated tax revenues. In addition, pursuant to certain acts of the 80th General Assembly, the State Treasurer has been authorized to establish in the State Highway and Transportation Department Fund a special account, known as the Highway Resurfacing and Rehabilitation Account. The Commission is authorized to pledge to the repayment of the bonds the full faith and credit of the State, as provided in Section 11 of this Act, and to grant a lien upon the funds on deposit in the 1995 Arkansas Highway Construction and Improvement Bond Account and the Highway Resurfacing and Rehabilitation Account in the State Highway and Transportation Department Fund.

(c) On or before commencement of each fiscal year, the Commission in consultation with the Chief Fiscal Officer shall determine the estimated amount required for payment of debt service due on each series of bonds issued and outstanding under this Act during such fiscal year, and shall certify such estimated amount to the State Treasurer. The State Treasurer shall then make transfers from the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to the trustees for each series of bonds, in such amounts and at such times as shall be specified in the indentures, to pay the maturing debt service on each series of bonds issued and outstanding under this Act. The State Treasurer shall make such additional transfers as the Commission shall certify as being required under the indentures to enable the Commission to establish and thereafter maintain with the trustee for each series of bonds a reserve or reserves for payment of debt service on each series of bonds. Upon certification from the Commission, the State Treasurer may also make transfers of designated amounts from the Highway Resurfacing and Rehabilitation Account in the State Highway and Transportation Department Fund to the trustees or to the 1995 Arkansas Highway Construction and Improvement Bond Account for payment of debt service due on each series of bonds issued and outstanding.

(d) The obligation to make transfers from the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund for the payment of debt service on, and, if applicable, a reserve for, each series of bonds shall constitute a first charge against amounts on deposit therein. Funds on deposit in the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund in excess of the amounts required to pay debt service on the bonds and for a reasonable reserve may be used for highway improvements of the Commission, as defined in this Act, and for the redemption of bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity, as set forth in the trust indentures authorizing or securing each series of bonds.

(e) In the event that there are insufficient amounts in the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to pay the debt service on bonds issued and outstanding under this Act, or to fund any necessary reserves at the required level, the State Treasurer shall, to the extent permitted by law, transfer additional amounts thereto from the general revenues of the State.

(f) Prior to the beginning of each fiscal biennium, the Chief Fiscal Officer of the State shall determine the portion of revenues attributable to economic growth within Arkansas which is a direct result of highway improvements which are financed by the bonds issued pursuant to this act and certify such amount to the Governor. If such revenues are appropriated by the General Assembly for repayment of bonds, the Treasurer of the State shall then transfer that amount from general

revenues to the 1995 Arkansas Highway Construction and Improvement Bond Account.

SECTION 13. INVESTMENT OF REVENUES. Any moneys held in the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund and any fund in the State Treasury created under this Act shall be invested by the State Board of Finance to the full extent practicable pending disbursement for the purposes intended. Notwithstanding any other provision of law, such investments shall be in accordance with the terms of the resolution or trust indenture authorizing or securing the series of bonds to which said fund appertains to the extent the terms of such resolution or trust indenture are applicable.

SECTION 14. REFUNDING BONDS. (a) The Commission may issue bonds for the purpose of refunding bonds previously issued pursuant to this Act, provided, however, that the total amount of bonds outstanding after the refunding is completed does not exceed the total amount authorized by this Act.

(b) Such refunding bonds shall be general obligations of the State of Arkansas, secured as set forth herein, and shall be secured and sold in accordance with the provisions of this Act.

SECTION 15. TAX EXEMPTION. All bonds issued under this Act, and interest thereon, shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes as well as income tax on any profit from the sale of the bonds at a profit. The bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of municipal, county, bank, fiduciary, insurance company and trust funds.

SECTION 16. POWERS OF COMMISSION. All powers granted to the Commission pursuant to this Act shall be deemed in addition to such powers as already exist pursuant to Amendment 42 to the Arkansas Constitution and the laws of the State of Arkansas. No member of the Commission shall be liable personally for any reason arising from the issuance of bonds pursuant to this Act unless such person shall have acted with corrupt intent.

SECTION 17. Ark. Code Ann. § 27-70-209 is hereby repealed.

SECTION 18. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 20. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 21. EMERGENCY. (Failed to be adopted) It is hereby found and determined by the General Assembly that there is an

immediate need for the construction and repair of highways and roads within the State of Arkansas and that such a program cannot be accomplished without the issuance of bonds to finance the program. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after the passage and approval. APPROVED: April 7, 1995.

16. DEPARTMENT OF ARKANSAS STATE POLICE HEADQUARTERS FACILITY AND
WIRELESS DATA EQUIPMENT FINANCING ACT — ACTS 1997, No. 1057.

SECTION 1. This Act shall be known and may be cited as the “Department of Arkansas State Police Headquarters Facility and Wireless Data Equipment Financing Act.”

SECTION 2. (a) The General Assembly finds:

(1) that the Arkansas State Police are daily faced with:

(A) problems related to out-of-date methods of transmitting and processing information between officers in the field and headquarters,

(B) the need for a more efficient means of allocating Department personnel and other resources, particularly in emergency circumstances,

(C) radio frequency congestion and information bottleneck,

(D) greater personal risk for officers using out-of-date information support,

(E) inadequate access to information databases, and

(F) inadequate security for transmission of law enforcement information;

(2) that there is a need to improve the Department’s information system by providing Wireless Data Equipment to support the Arkansas State Police;

(3) that Wireless Data Equipment will be supported by the Department’s Land-Mobile Communications System and that the costs of implementing the use of Wireless Data Equipment is greatly reduced by the availability of the Land-Mobile Communications System to provide wireless transmission capability;

(4) that a method of financing is necessary to enable the Department to obtain Wireless Data Equipment;

(5) that the use of tax exempt revenue bonds to finance the new Headquarters Facility will lower the cost of the facility by substantially reducing the interest expense that otherwise would be paid; and

(6) that certain drivers license fees which were pledged to obligations issued to finance the Land-Mobile Communications System are now available to be pledged to the acquisition of the new Headquarters Facility and Wireless Data Equipment.

(b) The General Assembly hereby determines that Wireless Data Equipment is needed to maintain modern law enforcement and is therefore essential to the safety and welfare of the people of the State.

(c) It is hereby legislatively determined that the most feasible and

least expensive way of financing the acquisition of Wireless Data Equipment is by authorizing the use of revenue bonds.

(d) It is hereby legislatively determined that the acquisition and financing of the new Headquarters Facility with revenue bonds will result in a substantial savings when compared to the method currently in place.

SECTION 3. Any fees generated by Arkansas Code 27-16-801(a) and Arkansas Code 27-23-118(a)(3) which are pledged to meet obligations under Arkansas Code 12-8-301, et seq., for the Department's Land-Mobile Communications System are no longer required to meet those obligations, and therefore may be utilized by the Department as provided in this act.

SECTION 4. DEFINITIONS. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) "Acquire" when applied to Wireless Data Equipment, means to acquire (by purchase or otherwise), construct, repair, alter, install, restore or place on any land, or in any building or motor vehicle, any Wireless Data Equipment, by negotiation or bidding upon such terms and conditions as are determined by the Commission to be in the best interests of the Department and that will most effectively serve the purposes of this act.

(b) "Act 231" means Act 231 of 1945, as now in effect or as hereafter amended.

(c) "Authority" means the Arkansas Development Finance Authority.

(d) "Authority Act" means the Arkansas Development Finance Authority Act of 1985, as amended.

(e) "Commission" means the Arkansas State Police Commission, being the Commission created by Act 231, or any successor agency.

(f) "Cost" as applied to Wireless Data Equipment, means and includes any and all costs of such equipment and, without limiting the generality of the foregoing, shall include the following:

(1) all costs of the acquisition of any such equipment and all costs incident or related thereto including, but not limited to, engineering, architectural, consulting and related services;

(2) the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and revenues;

(3) all other expenses necessary or incident to planning, providing or determining the need for or the feasibility of the equipment;

(4) the costs of related software for the operation and support of the equipment;

(5) the costs of database development and other information sources and all training required for the efficient use of the equipment; and

(6) any and all costs paid or incurred in connection with the issuance of bonds by the Authority to finance the acquisition of Wireless Data Equipment.

(g) "Cost" as applied to the Headquarters Facility means:

(1) the cost of acquiring the Headquarters Facility by satisfaction of the purchase price under the terms of the existing lease purchase

agreement between the Department and the Arkansas Teacher Retirement System, or such other terms as may be negotiated between the parties; and

(2) any and all costs paid or incurred in connection with the issuance of bonds by the Authority to finance the acquisition of the Headquarters Facility.

(h) “Debt Service Payments” means payments to be made by the Department from Pledged Revenues or other legally available sources to secure and provide for payments due on any bonds or other obligations issued by the Authority to accomplish the purposes of this Act.

(i) “Department” means the Department of Arkansas State Police, created by Act 231, and any successor agency.

(j) “Director” means the Director of the Department of Arkansas State Police.

(k) “Financing Documents” means any note and mortgage, loan agreement, lease purchase agreement, trust indenture and related documents executed in connection with the issuance of bonds by the Authority to finance the Headquarters Facility or Wireless Data Equipment.

(l) “Financing Fund” means the Arkansas Department of State Police Financing Fund created by Section 6 of this act.

(m) “Headquarters Facility” means the land, buildings and improvements including equipment and personal property located at the intersection of Geyer Springs Road and Interstate 30 which is currently owned by the Arkansas Teacher Retirement System and leased to the Department.

(n) “Purchase Agreement” means any agreement entered into by the Commission with a vendor or vendors to acquire Wireless Data Equipment.

(o) “Pledged Revenues” means all fees generated by Arkansas Code 27-16-801(a) and 27-23-118(a)(3) as authorized by Section 6 of this act to be pledged for the security and payment of Debt Service Payments.

(p) “Wireless Data Equipment” means the public safety wireless data and related technologies equipment, including workstations, modems and other vehicle based equipment, network controllers, computer aided dispatch equipment, central information services sites with related server computers and controllers, software and information support, and furnishings and fixtures used directly for public safety purposes in connection with the operation thereof, and such other equipment, property, and other items determined by the Commission as necessary to accomplish the purpose of this act.

SECTION 5. In addition to the powers, purposes, and authorities set forth elsewhere in this Act or in other laws, the Commission is hereby authorized and empowered to:

(a) Acquire, construct, repair, renovate, alter, maintain and equip Wireless Data Equipment and the Headquarters Facility.

(b) Contract to acquire Wireless Data Equipment on such terms and

conditions as are specified by this act and approved by the Director with the consent of the Commission and to provide for the payment of the cost of acquisition of Wireless Data Equipment and the Headquarters Facility from any legally available source or sources, including, without limitation, the revenues authorized by Section 4 of this act, and funds appropriated and made available under Act 231.

(c) Enter into such Financing Documents and agreements with the Authority that are necessary and appropriate to secure obligations issued by the Authority that will facilitate the acquisition of the Headquarters Building and Wireless Data Equipment.

(d) Take such other action, not inconsistent with law, as may be necessary, convenient or desirable to carry out the powers, purposes and authority set forth in this act and to carry out the intent of this act.

SECTION 6. (a) The Debt Service Payments and other costs relating to Wireless Data Equipment and the Headquarters Facility shall be secured by a lien on and pledge of the Pledged Revenues. To the extent that Pledged Revenues are not required to make Debt Service Payments, they shall be released to the Department to provide operating funds as described below.

(b) On July 1, 1997, all Pledged Revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this act. The Pledged Revenues shall not be deposited into the State Treasury but, as and when received (by the Commissioner of Motor Vehicles, the Department of Motor Vehicles, the Department, the Commission, the Commissioner of Revenues, the Department of Finance and Administration or by any other state agency) shall be deposited in a bank or banks selected by the Department, to the credit of a fund hereby created and designated as the Department of Arkansas State Police Financing Fund.

(c) Commencing on the date that bonds are issued by the Authority pursuant to this act and the Authority Act, the Financing Fund shall constitute Pledged Revenues as defined in this act. Debt Service Payments shall be paid from the Financing Fund as set forth in the Financing Documents. If and so long as all Debt Service Payments have been properly made on the last day of each fiscal quarter, the Pledged Revenues remaining in the Financing Fund shall be withdrawn from the Financing Fund and deposited in the State Treasury as special revenues to the credit of the Department. So long as any Debt Service Payments remain to be paid, all moneys in the Financing Fund shall continue to be pledged to Debt Service Payments, and other costs in connection with the bonds and the maintenance of reserves, notwithstanding the Department's right to withdraw funds on the last day of each fiscal quarter if Debt Service Payments are current. The provisions of this Section shall expire upon payment or provision for all Debt Service Payments as authorized in the Financing Documents, and any balances remaining in the Financing Fund shall be deposited in the State Treasury to the credit of the Department as a non-revenue receipt.

(d) So long as there are remaining any Debt Service Payments to be made, the General Assembly may modify or change the fees referred to as Pledged Revenues above but only on condition that there is always maintained in effect and made available for the payment of Debt Service Payments, sources of revenue, comparable in amount and time of receipt, which produce revenues sufficient to provide for and secure Debt Service Payments when due.

SECTION 7. The Commission shall submit any Purchase Agreement for the acquisition of Wireless Data Equipment, as authorized by this act, to the Arkansas Legislative Council for its advice and counsel prior to any obligation being incurred by the Commission.

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 11. EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that certain drivers license fees are pledged to secure bonds which mature on July 1, 1997; that upon the maturity of those bonds the fees will no longer be obligated; that those fees are needed to provide vital services to the Arkansas State Police; that this act will allow such use of those fees; and this act should go into effect as soon as possible to provide the additional revenues to the State Police. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto. APPROVED: April 2, 1997.

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